

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FREE SPEECH COALITION, INC. et al.,)
) Civil Action No. 2:09-4607
)
Plaintiffs,) Judge Michael M. Baylson
)
v.)
) DEFENDANT'S
THE HONORABLE ERIC H. HOLDER, JR.,) MEMORANDUM IN SUPPORT
) OF MOTION TO
Attorney General,) EXCLUDE TESTIMONY OF
) MICHELLE DROUIN, MARC
Defendant.) ZIMMERMAN, AND DANIEL
) LINZ
_____)

Deposition Transcripts of
Michelle Drouin and Marc Zimmerman

In the Matter of:

Free Speech Coalition, et al.

v

The Honorable Eric H. Holder, Jr.

MICHELLE DROUIN

April 26, 2013



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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FREE SPEECH COALITION, et al.,)
Plaintiffs,)
vs.) Civil Action
THE HONORABLE ERIC H. HOLDER, JR.,) No. 2:2009-cv-607
Defendant.)

DEPOSITION OF MICHELLE A. DROUIN

DATE: Friday, April 26, 2013

TIME: 9:00 a.m.

PLACE: U.S. Attorney's Office
1300 South Harrison Street
Room 215
Fort Wayne, Indiana 46802

Called as a witness herein in accordance with the
Federal Rules of Civil Procedure before
Susan J. Snyder, court reporter and Notary Public.

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Free Speech Coalition, et al. v The Honorable Eric H. Holder, Jr.
Drouin, Michelle on 04/26/2013

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Swinton</p> <p>16 Trial Attorney, Civil Division</p> <p>17 UNITED STATES DEPARTMENT OF JUSTICE</p> <p>18 20 Massachusetts Avenue N.W.</p> <p>19 Washington, D.C. 20530</p> <p>20 (202) 305-7667</p> <p>21 nathan.m.swinton@usdoj.gov</p> <p>22</p> <p>23 Appearing on behalf of defendant</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p> <p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> <p>80</p> <p>81</p> <p>82</p> <p>83</p> <p>84</p> <p>85</p> <p>86</p> <p>87</p> <p>88</p> <p>89</p> <p>90</p> <p>91</p> <p>92</p> <p>93</p> <p>94</p> 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<p style="text-align: right;">Page 6</p> <p>1 A. Can you can please clarify again? I'm so sorry.</p> <p>2 Q. No problem.</p> <p>3 MS. BAUMGARDNER: Well, can I just let the</p> <p>4 record reflect that I am counsel present for the</p> <p>5 plaintiffs. And we have retained Dr. Drouin as an</p> <p>6 expert witness. So to the extent that she is the</p> <p>7 plaintiffs' expert, I am here in my capacity as</p> <p>8 the plaintiffs' representative who have retained</p> <p>9 her. But I don't represent her per se.</p> <p>10 Q. So just --</p> <p>11 A. Would you like me to state that somehow?</p> <p>12 Q. Let me try to reframe the question.</p> <p>13 A. Okay. Thank you.</p> <p>14 Q. I just want to make clear that you have not,</p> <p>15 yourself, obtained counsel for this case. You have</p> <p>16 not sought an attorney to represent you in this</p> <p>17 case?</p> <p>18 A. No, I have not.</p> <p>19 Q. Okay.</p> <p>20 A. Thank you.</p> <p>21 Q. Thank you. Have you ever had your deposition taken</p> <p>22 before?</p> <p>23 A. No, I have not.</p> <p>24 Q. Okay. Are you familiar with depositions at all?</p> <p>25 A. Only in the explanation that Lorraine has given to</p>	<p style="text-align: right;">Page 8</p> <p>1 complete answer, then you must still answer the</p> <p>2 question to the extent you can.</p> <p>3 A. Okay.</p> <p>4 Q. As you can see, the court reporter is recording all</p> <p>5 that is said here. Because she can only record our</p> <p>6 words and cannot understand head nods or hand</p> <p>7 gestures -- she can't record head nods or hand</p> <p>8 gestures, please answer each question with a verbal</p> <p>9 response.</p> <p>10 A. I will.</p> <p>11 Q. Okay. In addition, please also wait for me to</p> <p>12 finish my question before you respond, so that we</p> <p>13 can avoid talking over one another. I like to take</p> <p>14 breaks about every 90 minutes or so; however, if you</p> <p>15 need to take a break before that, just let me know</p> <p>16 at any time.</p> <p>17 A. Okay.</p> <p>18 Q. If there's a question pending, I'd ask that you</p> <p>19 provide your full and complete response to that</p> <p>20 question before we take a break. Is that okay?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Now, from time to time, my colleague,</p> <p>23 Ms. Baumgardner, may object. After her objection,</p> <p>24 I'm going to ask you to go ahead and answer the</p> <p>25 question unless she instructs you not to. Do you</p>
<p style="text-align: right;">Page 7</p> <p>1 me about depositions. That's the extent of my</p> <p>2 knowledge.</p> <p>3 Q. Okay. And what did she tell you about depositions?</p> <p>4 A. She just said that I would be asked questions. I</p> <p>5 should answer them honestly and in a straightforward</p> <p>6 way. And they would be centered around the</p> <p>7 knowledge that I have about this case.</p> <p>8 Q. Okay. Just a little bit of background information</p> <p>9 about depositions. I'm going to be asking you a</p> <p>10 series of questions and you're under oath to provide</p> <p>11 full and complete answers. If you don't understand</p> <p>12 any question I ask, please let me know before you</p> <p>13 respond and I will explain and can rephrase the</p> <p>14 question. Okay?</p> <p>15 A. Thank you.</p> <p>16 Q. If you do answer a question, I will assume that you</p> <p>17 understood the question.</p> <p>18 A. Okay.</p> <p>19 Q. Did you take an oath before we started this morning?</p> <p>20 A. Yes, I did.</p> <p>21 Q. Do you understand the nature of that oath?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Okay. As a reminder, the oath requires you to fully</p> <p>24 answer each question to the extent that you can. If</p> <p>25 you're not sure of an answer or don't have a</p>	<p style="text-align: right;">Page 9</p> <p>1 understand?</p> <p>2 A. Yes, I do.</p> <p>3 Q. Okay. Have you taken or do you intend to take any</p> <p>4 medication that would affect your ability to testify</p> <p>5 accurately or honestly?</p> <p>6 A. No.</p> <p>7 Q. Okay. Can you please state your full name for the</p> <p>8 record.</p> <p>9 A. Michelle Adrian Drouin.</p> <p>10 Q. And can you spell your name.</p> <p>11 A. From the beginning?</p> <p>12 Q. Yes, please.</p> <p>13 A. M-i-c-h-e-l-l-e, A-d-r-i-a-n, D-r-o-u-i-n.</p> <p>14 Q. Thank you. What did you do to prepare for your</p> <p>15 deposition today?</p> <p>16 A. I talked with Lorraine about the atmosphere of a</p> <p>17 deposition and what I'd be required to do. I</p> <p>18 reviewed the documents that I had written as well as</p> <p>19 some of the research documents cited in my report.</p> <p>20 And I read the statement written by Dr. Stark that</p> <p>21 commented on my report.</p> <p>22 Q. Do you read all of the -- did you reread all the</p> <p>23 documents that are cited in your report or just some</p> <p>24 of them?</p> <p>25 A. Just some of them. And I only looked at certain</p>

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<p style="text-align: right;">Page 10</p> <p>1 parts of those documents.</p> <p>2 Q. Okay. Did you speak with Ms. Baumgardner at all</p> <p>3 about the substance of the deposition?</p> <p>4 A. Can you clarify your question in regard to the word</p> <p>5 "substance."</p> <p>6 Q. Sure. So you said that you spoke with</p> <p>7 Ms. Baumgardner about the atmosphere of a</p> <p>8 deposition --</p> <p>9 A. Yes.</p> <p>10 Q. -- and the procedures?</p> <p>11 A. Yes.</p> <p>12 Q. Did you also talk about the substance of your</p> <p>13 testimony?</p> <p>14 A. Yes. A little bit, yes. We talked about the types</p> <p>15 of things that I might be asked.</p> <p>16 Q. Okay. And what did you discuss? What types of</p> <p>17 things might you be asked?</p> <p>18 MS. BAUMGARDNER: I'm going to object and</p> <p>19 instruct the witness not to answer on the grounds</p> <p>20 that this is covered by work product under Rule</p> <p>21 26.</p> <p>22 Q. Did you talk to anybody else other than</p> <p>23 Ms. Baumgardner about your deposition?</p> <p>24 A. No -- yes. She has -- a man named Bill Livingston.</p> <p>25 He arranged for us to have a conversation.</p>	<p style="text-align: right;">Page 12</p> <p>1 about your background.</p> <p>2 A. Yes.</p> <p>3 Q. Do you consider yourself to be an expert in any</p> <p>4 particular field?</p> <p>5 A. I believe that I am at present the expert in young</p> <p>6 adult sexting.</p> <p>7 Q. Okay. And you said the --</p> <p>8 A. Or one of the experts in young adult sexting.</p> <p>9 Q. And what is young adult sexting?</p> <p>10 A. Young adult sexting is the transmission of</p> <p>11 sexually-explicit material by young adults.</p> <p>12 Q. What do you mean by transmission?</p> <p>13 A. Transmission -- what I am considering transmission</p> <p>14 is electronic transmission.</p> <p>15 Q. So electronic transmission would be sending a cell</p> <p>16 phone text message?</p> <p>17 A. It could be a cell phone text message. It could be</p> <p>18 transmitted over the computer. Anything that --</p> <p>19 computer-mediated communication is a broader term,</p> <p>20 but considering a cell phone a computer.</p> <p>21 Q. Okay. And what do you mean by young adults?</p> <p>22 A. Young adults -- well anywhere, I guess, from 18 to</p> <p>23 26 is a typical inclusion criteria for young adults.</p> <p>24 Q. And when you say "typical," what do you mean?</p> <p>25 A. In the literature, when you look at young adults,</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. And who is Bill Livingston?</p> <p>2 A. Bill Livingston is a colleague who works with</p> <p>3 Ms. Baumgardner.</p> <p>4 Q. Okay. And did you know Mr. Livingston before you</p> <p>5 had the discussion about this deposition?</p> <p>6 A. Yes. He contacted me originally about the case.</p> <p>7 Q. Okay. Do you know any of the other experts in this</p> <p>8 case?</p> <p>9 A. I do not personally know the experts in this case.</p> <p>10 Q. Have you spoken with any of the experts?</p> <p>11 A. No, I have not.</p> <p>12 Q. Okay. Did you participate in preparing any</p> <p>13 responses to any of the discovery requests in this</p> <p>14 case?</p> <p>15 A. Can you clarify what is a discovery request?</p> <p>16 Q. Sure. Did you have any involvement in this case</p> <p>17 other than preparing your expert report?</p> <p>18 A. No.</p> <p>19 Q. And also coming -- and your other involvement is</p> <p>20 coming to the deposition today. Correct?</p> <p>21 A. Yes.</p> <p>22 Q. So you've been involved coming to the deposition and</p> <p>23 preparing your expert report?</p> <p>24 A. Yes. I'm sorry if my answer was misleading. Yes.</p> <p>25 Q. That's fine. Okay. I want to talk a little bit</p>	<p style="text-align: right;">Page 13</p> <p>1 sometimes the age range is a little different. Some</p> <p>2 people say 20 to 26, 18 to 26 is a commonly used age</p> <p>3 range. But some people extend young adulthood</p> <p>4 longer than that. As a developmental psychologist</p> <p>5 which is also what I would say is my expertise, I</p> <p>6 would say that the age range for young adulthood is</p> <p>7 not written in stone. It is not exceptionally well</p> <p>8 defined.</p> <p>9 Q. Excuse me. Just to clarify. When you said "the</p> <p>10 literature," what did you mean?</p> <p>11 A. Research literature on the topic of when we are</p> <p>12 adolescents and when we are adults.</p> <p>13 Q. Okay. Have you, yourself, ever sent a sexual text</p> <p>14 message?</p> <p>15 A. Yes.</p> <p>16 Q. Have you received a sexual text message?</p> <p>17 A. No.</p> <p>18 Q. When did you send the sexual text message?</p> <p>19 A. I don't remember.</p> <p>20 Q. Was it in the last year?</p> <p>21 A. No.</p> <p>22 Q. Was it in the last five years?</p> <p>23 A. No.</p> <p>24 Q. Last ten years?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 14</p> <p>1 Q. Was it by cell phone?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Have you sent any sexual messages using any</p> <p>4 other medium?</p> <p>5 A. Yes.</p> <p>6 Q. What medium?</p> <p>7 A. Computer.</p> <p>8 Q. Was that by e-mail?</p> <p>9 A. Probably. I don't recall, but probably.</p> <p>10 Q. Okay. And when you say "sexual text message," was</p> <p>11 this a photograph?</p> <p>12 A. I don't think I sent a photograph. By sexual text</p> <p>13 message, it was probably text.</p> <p>14 Q. Okay. So what you sent was a text message that was</p> <p>15 sexual in nature?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And was that part of any study you were</p> <p>18 doing?</p> <p>19 A. No.</p> <p>20 Q. So you sent that message in your personal capacity?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Do you consider yourself to be an expert</p> <p>23 based on your personal experience with --</p> <p>24 A. No.</p> <p>25 Q. You don't consider yourself to be an expert based on</p>	<p style="text-align: right;">Page 16</p> <p>1 not sure of the exact date. But it would have been</p> <p>2 within the last few months.</p> <p>3 Q. Okay. I want to keep talking about your background</p> <p>4 and I thought it might be helpful to have this</p> <p>5 document in front of you as we discuss. Now, you</p> <p>6 have a Bachelor of Arts in Psychology from Cornell?</p> <p>7 Is that correct?</p> <p>8 A. That's right.</p> <p>9 Q. You have a Ph.D. in Experimental Psychology from the</p> <p>10 University of Oxford?</p> <p>11 A. Ph.D. is the American terminology. At Oxford, it's</p> <p>12 D.Phil.</p> <p>13 Q. Okay.</p> <p>14 A. But it's the same.</p> <p>15 Q. So D.Phil is the same as a Ph.D.?</p> <p>16 A. Doctor of Philosophy versus Philosophy Doctor,</p> <p>17 Ph.D., yes.</p> <p>18 Q. Okay.</p> <p>19 A. It's the American equivalent. But I put it on with</p> <p>20 the American equivalent.</p> <p>21 Q. Okay. Thank you for clarifying. What is</p> <p>22 experimental psychology?</p> <p>23 A. Experimental psychology focuses on the research. So</p> <p>24 you can specialize in a type of psychology -- you</p> <p>25 could go into cognitive or neuroscience.</p>
<p style="text-align: right;">Page 15</p> <p>1 your personal experience with sending sexual</p> <p>2 messages?</p> <p>3 A. No.</p> <p>4 MR. SWINTON: Okay. Thank you.</p> <p>5 (Whereupon, Deposition Exhibit No. DX-1,</p> <p>6 Curriculum Vitae of Michelle A. Drouin,</p> <p>7 was marked for identification.)</p> <p>8 Q. Dr. Drouin, I'm handing you a ten-page document.</p> <p>9 It's titled Curriculum Vitae for Michelle A. Drouin.</p> <p>10 Have you seen this document before?</p> <p>11 A. Yes, I believe so.</p> <p>12 Q. You have seen the document before?</p> <p>13 A. Yes.</p> <p>14 Q. And what is the document?</p> <p>15 A. This is my curriculum vitae.</p> <p>16 Q. And did you write this document?</p> <p>17 A. I did.</p> <p>18 Q. When did you write it?</p> <p>19 A. I began writing it in probably 2004, and I</p> <p>20 continually add to it. It is a work in progress,</p> <p>21 this document.</p> <p>22 Q. And the version of your curriculum vitae that you</p> <p>23 attached to your expert report in this case, when</p> <p>24 did you write that?</p> <p>25 A. I probably updated it right before I sent it, so I'm</p>	<p style="text-align: right;">Page 17</p> <p>1 Experimental focuses on research methods and</p> <p>2 research.</p> <p>3 Q. So when you say "research methods," what do you</p> <p>4 mean?</p> <p>5 A. Learning how to conduct actual research is research</p> <p>6 methods.</p> <p>7 Q. Okay. So experimental psychology is learning how to</p> <p>8 conduct actual research methods in psychology -- in</p> <p>9 the field of psychology?</p> <p>10 A. There are -- it's actually broader than that. But</p> <p>11 simplified, the focus of the program was on research</p> <p>12 methodology and conducting actual research.</p> <p>13 Q. Okay. What types of things did you study about</p> <p>14 conducting research?</p> <p>15 A. Well, you go in and you immediately begin conducting</p> <p>16 research under the supervision of experts in the</p> <p>17 field.</p> <p>18 Q. What types of research did you do?</p> <p>19 A. I did, while I was at Oxford, a longitudinal study</p> <p>20 of children's emergent literacy. So the types of</p> <p>21 things that children are learning in preschool that</p> <p>22 contribute to their later literacy skills.</p> <p>23 Q. How did you conduct that study?</p> <p>24 A. Can you clarify your question?</p> <p>25 Q. Sure. Did you select a sample population to study?</p>

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<p style="text-align: right;">Page 18</p> <p>1 A. Did I select it, yes. With the help of my 2 supervisor, I selected a sample population. 3 Q. Okay. How did you select that sample? 4 A. I selected that sample by going into a neighboring 5 community, going through the schools and 6 distributing solicitation forms, I guess would be 7 the layman's term for participants. 8 Q. And what was the target population that you were 9 studying? 10 A. Three year olds at the time. 11 Q. Three year olds. So the schools you were going into 12 were preschools? 13 A. Well, I actually started by going into a secondary 14 school. The education system in England is a little 15 bit different in that they have local preschools 16 connected to the elementary schools. They're not 17 called -- they're called primary schools. So they 18 have quite a connection even with three-year-old 19 children within the school district. So I started 20 with the secondary school in the school district and 21 then branched out into the elementary schools which 22 fed into preschools associated with the elementary 23 schools. 24 Q. Okay. And what were the solicitation forms that you 25 mentioned?</p>	<p style="text-align: right;">Page 20</p> <p>1 skills -- but letter-naming is different because 2 it's actually letter sound skills -- are related to 3 their later literacy development. I also -- the 4 intervention aspect -- the parents involvement in 5 the intervention seemed to have an effect on their 6 performance in the intervention. 7 Q. And I'm sorry. Remind me of the target population 8 you were studying again? 9 A. Three year olds. 10 Q. And was this three year olds in the entire U.K.? 11 A. This was three year olds in this area outside of 12 Oxford. 13 Q. Okay. How big was the area? 14 A. I'm not sure how big the town was. 15 Q. But was it a suburb of Oxford? 16 A. No. It was its own city. 17 Q. Okay. So it was a smaller city located near Oxford? 18 A. I'm not even sure it was smaller. I don't know the 19 population of the city. 20 Q. But it was a city located near Oxford? 21 A. It was a city located near Oxford. 22 Q. Okay. And you selected students from schools in the 23 city and then drew conclusions about the three year 24 olds in the city as a whole? 25 A. No. I drew conclusions about children's literacy</p>
<p style="text-align: right;">Page 19</p> <p>1 A. They were -- they were approved by the Oxford 2 Institutional Review Board, which is their ethics 3 board. I don't know that they call it Institutional 4 Review Board, but that's our term for it in the 5 United States. They're forms that describe what the 6 study is and then ask for participation. 7 Q. And how did the participants participate in the 8 study? 9 A. Can you clarify? I'm sorry. 10 Q. Sure. Did you just observe -- did you observe their 11 behavior? 12 A. I took measurements. So they -- the students 13 actually participated in an intervention, a 14 reading -- a pre-reading intervention. So some of 15 the participants participated in the intervention; 16 some of them did not participate in the 17 intervention. Some of them participated with a 18 parent present; some participated without a parent 19 present. So we had several different conditions. 20 But every -- every child who was involved in the 21 study was also measured on their literacy skills at 22 various points. So that would have been the 23 consistent theme. 24 Q. And what conclusions did you draw from your study? 25 A. The conclusions were that children's letter-naming</p>	<p style="text-align: right;">Page 21</p> <p>1 development. 2 Q. And those conclusions applied just -- did you draw 3 conclusions just about that city's population for 4 children? 5 A. No. I drew conclusions about children based on -- 6 well, children who have a -- who learn letter sounds 7 first. Because this was a particular type of 8 instruction. 9 In England, they have a very standardized 10 instruction. So that children who are involved in 11 the school systems in England all receive a 12 standardized -- we have localized education systems 13 here; theirs is not localized to a particular city. 14 So whereas we could, in Fort Wayne, be doing 15 something very different with our curriculum than 16 someone in Cleveland, in England it's standardized 17 through the country. So the -- anyone learning 18 letter sounds first would have -- this would have 19 been applicable to. 20 Q. Okay. 21 A. Where these were the conclusions that I drew. 22 Q. Okay. So your conclusions were applicable to the 23 entire U.K. for children? 24 A. In my discipline, this is a standard way of 25 conducting research that you could apply broadly. I</p>

<p style="text-align: right;">Page 22</p> <p>1 wouldn't say that it applies to every child in the</p> <p>2 U.K., but when you're looking at educational</p> <p>3 phenomenon or psychological phenomenon and you have</p> <p>4 a sample that's sufficiently large enough, you</p> <p>5 typically, when you're examining these, you make</p> <p>6 applications that are broader than just the sample</p> <p>7 that you have tested.</p> <p>8 Q. Correct. And it helped in this instance that the</p> <p>9 curriculum was standardized throughout the entire</p> <p>10 U.K.</p> <p>11 A. Though if I would have done the same study in the</p> <p>12 United States, I would have -- my paper wouldn't</p> <p>13 have been any different.</p> <p>14 Q. Okay.</p> <p>15 A. One other thing. So it has broader applicability</p> <p>16 than the U.K., because the parental involvement</p> <p>17 aspect had nothing to do with the children learning</p> <p>18 letter sounds first. So any child who might have a</p> <p>19 parent, it could be applicable to. So -- and that</p> <p>20 was a subsequent publication that's written in the</p> <p>21 CV.</p> <p>22 Q. Okay. So you would feel comfortable drawing</p> <p>23 conclusions about children outside of the U.K. based</p> <p>24 on the studies performed?</p> <p>25 A. Any child with a parent who could be involved in a</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. What is your teaching emphasis?</p> <p>2 A. Developmental psychology.</p> <p>3 Q. Okay. And what types of classes do you teach?</p> <p>4 A. I teach introductory psychology which is, in our</p> <p>5 university, Elementary Psychology, Child Psychology,</p> <p>6 Development Across the Lifespan, Social and</p> <p>7 Personality Development, Language Development,</p> <p>8 introduction to the major of psychology. I teach a</p> <p>9 research course which is the Readings and Research</p> <p>10 in Psychology. I think that might be it. And</p> <p>11 several of those I teach honors versions of.</p> <p>12 Q. And what is developmental psychology?</p> <p>13 A. Developmental psychology is the study of human</p> <p>14 development.</p> <p>15 Q. And human development could be at any age?</p> <p>16 A. Human development? It depends. In my Child</p> <p>17 Psychology course, we cover prenatal 'til</p> <p>18 adolescence. And then my Development Across the</p> <p>19 Lifespan course, so that's a lifespan perspective,</p> <p>20 we look at prenatal to death.</p> <p>21 Q. So when you say you teach classes in developmental</p> <p>22 psychology, that doesn't necessarily mean you're</p> <p>23 focused on one age range?</p> <p>24 A. No, I'm not focused on one age range.</p> <p>25 Q. Okay. I see that you're a member of American</p>
<p style="text-align: right;">Page 23</p> <p>1 literacy study, I feel comfortable making -- not</p> <p>2 conclusions, but stating that this is something that</p> <p>3 certainly is worth exploring in that population. So</p> <p>4 it could broadly be something that's worth</p> <p>5 exploring.</p> <p>6 Q. What do you mean by "worth exploring"?</p> <p>7 A. Worth exploring with further tests. If you would</p> <p>8 like to replicate the study, it's often -- you're</p> <p>9 talking about cross-culture. So cross-cultural</p> <p>10 studies are sometimes a little bit -- you don't want</p> <p>11 to make too broad of conclusions. So worth</p> <p>12 exploring means I believe that there was enough</p> <p>13 merit in what I did in one culture to merit its</p> <p>14 exploration in another culture.</p> <p>15 Q. Okay. And cross-culture doesn't just mean two</p> <p>16 different countries?</p> <p>17 A. In literacy research, it does.</p> <p>18 Q. Okay. But the term could be used more broadly in</p> <p>19 other contexts?</p> <p>20 A. Cross-culture could be used more broadly, but here</p> <p>21 I'm not using it more broadly. I'm saying between</p> <p>22 countries.</p> <p>23 Q. Okay. I see that you've been a professor for a</p> <p>24 number of years?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 25</p> <p>1 Psychological Association?</p> <p>2 A. I'm a member of the American Psychological</p> <p>3 Association, Division Two. This is one focused on</p> <p>4 teaching.</p> <p>5 Q. Okay. So Division Two is a division of the</p> <p>6 association that's focused on teaching?</p> <p>7 A. Yes.</p> <p>8 Q. What does it mean to be a member?</p> <p>9 A. To be a member? Can you clarify your question?</p> <p>10 Q. How do you become a member?</p> <p>11 A. How do you become a member? You apply. I'm sure I</p> <p>12 filled out some type of application, listed my</p> <p>13 qualifications and -- this is a standard application</p> <p>14 process that I'm referring to. I don't recall</p> <p>15 specifically how I became a member of APA, Division</p> <p>16 Two.</p> <p>17 Q. Okay. And do you have any commitments to continue</p> <p>18 to be a member?</p> <p>19 A. Yes, I do. I am presently on the PR committee. And</p> <p>20 I think it's PR and media relations; I'm not sure of</p> <p>21 the exact name. But I was just elected to that</p> <p>22 committee for Division Two of the APA, which is the</p> <p>23 society for teaching of psychology.</p> <p>24 Q. And what is PR?</p> <p>25 A. Public relations.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q. Public relations? Okay. I didn't know if you were 2 referring to something -- 3 A. Some other statistical term. 4 Q. Okay. And I also see that you're a member of the 5 Association for Psychological Science? 6 A. Yeah, APS. Actually, I've just received notice that 7 my -- that my membership is expiring, and I'm not 8 sure that I will renew with APS. 9 Q. What is APS? 10 A. The Association for Psychological Science. 11 Q. I'm sorry. I meant more broadly. What does APS do? 12 A. APS is akin to APA. They have a little bit of a 13 different focus, but dedicated to the science of 14 psychology, both. 15 Q. And was this something you had to apply to become a 16 part of? 17 A. I don't remember what the application process was. 18 The APA is the premier association or membership in 19 my field, in my perspective. Association for 20 Psychological Science was offering a one-year 21 membership for people who were a part of, I think, 22 the APA, Division Two. So that's why I belonged to 23 that. 24 Did I answer your question? 25 Q. You did. Thank you. And you don't intend to</p>	<p style="text-align: right;">Page 28</p> <p>1 award. 2 Q. Why were you given that award? 3 A. I had to put together an application for it that 4 highlighted the innovations I was using in my online 5 teaching. And then I was awarded by a selection 6 committee. 7 Q. So it was based on the techniques you were using for 8 online teaching? 9 A. I assume so. It could also have been, perhaps, 10 based on the way in which I presented the techniques 11 that I'm using in my online classroom. I'm not sure 12 what the committee -- I'm not sure they can separate 13 those out. But very likely, the techniques I use in 14 online teaching. 15 Q. Okay. And also the Faculty Colloquium on Excellence 16 in Teaching -- 17 A. Yes. 18 Q. -- the FACET award. Why did you get this award? 19 A. I actually remember this application process well, 20 in comparison to the others. The faculty -- well, 21 I'll just use FACET as the abbreviation. FACET is 22 an organization that honors or recognizes teachers 23 who are in the Indiana university system who excel 24 in teaching. The application, when I filled it out, 25 I think ultimately was about 30 pages of</p>
<p style="text-align: right;">Page 27</p> <p>1 continue to be a member of the organization? 2 A. At this point, no. 3 Q. Okay. I also see you're a member of the Midwestern 4 Psychological Association? 5 A. I am, yes. 6 Q. And did you apply to become a member of that 7 association? 8 A. I believe I did. 9 Q. And what is that association? 10 A. The Midwestern Psychological Association is the 11 regional association of the American Psychological 12 Association focused on the Midwest. 13 Q. Okay. So it's a subdivision of the American 14 Psychological Association? 15 A. I believe that would be the terminology. 16 Q. Okay. 17 A. It's -- yes. 18 Q. Okay. I also see that you've received multiple 19 teaching awards? 20 A. I have, yes. 21 Q. I wanted to ask you about those. 22 A. Okay. 23 Q. So the DECCO Award for Innovative Online Teaching, 24 what was the basis for that award? 25 A. Innovations in online teaching was the basis of that</p>	<p style="text-align: right;">Page 29</p> <p>1 application, where you have to show the types of 2 things that you're doing in teaching that merit this 3 award. There is a campus-level committee; I'm not 4 on that committee -- I was not yet a member 5 obviously, but I'm currently not on the committee 6 either. 7 Once you get feedback from the campus 8 committee, they can decide to send your application 9 forward to the state committee or not. The state 10 committee has representatives from all of the 11 Indiana state universities. They review all of the 12 dossiers submitted by the applicants, and then make 13 their decisions about who is ultimately honored with 14 a FACET recognition. 15 Q. So you said this was based on the types of things 16 you were doing teaching. Correct? 17 A. Yes. 18 Q. And by types of things, you mean techniques and 19 methods you were using as an educator? 20 A. Yes. How I integrated my teaching philosophy with 21 my methods was probably a large portion of that as 22 well. 23 Q. Was this award based in any way on your research? 24 A. No. 25 Q. Was the DECCO award based in any way on your</p>

<p style="text-align: right;">Page 30</p> <p>1 research?</p> <p>2 A. I do research and -- I'm sorry. Can I -- I guess</p> <p>3 I -- there are two types of research -- or two types</p> <p>4 of research in my mind. There's disciplinary</p> <p>5 research and pedagogical research. I assumed that</p> <p>6 you were talking about disciplinary research. Was I</p> <p>7 correct? And do you want me to clarify what I mean</p> <p>8 by disciplinary research?</p> <p>9 Q. Maybe if might help if I clarify my questions.</p> <p>10 A. Please. That would be helpful.</p> <p>11 Q. So as I understand from what you're saying, you are</p> <p>12 involved in two different types of research,</p> <p>13 pedagogical and disciplinary?</p> <p>14 A. Yes.</p> <p>15 Q. So what do you mean by pedagogical?</p> <p>16 A. Pedagogical are teaching and learning research. So</p> <p>17 the scholarship of teaching and learning. That is</p> <p>18 one type of research that I do. The other type of</p> <p>19 research, disciplinary, is related to my -- my</p> <p>20 discipline of study is not related to teaching and</p> <p>21 learning research.</p> <p>22 Q. So when we say disciplinary studying, we're</p> <p>23 referring to developmental psychology?</p> <p>24 A. Broadly.</p> <p>25 Q. Broadly?</p>	<p style="text-align: right;">Page 32</p> <p>1 related to this because some of the student</p> <p>2 co-authors and this work that I do with students was</p> <p>3 highlighted in the application. And someone on the</p> <p>4 selection committee mentioned to me that it was a</p> <p>5 very strong point of my application.</p> <p>6 Q. So the laboratory you just described, you said you</p> <p>7 are monitoring other students performing research?</p> <p>8 A. I am their professor for a course that they take in</p> <p>9 learning research, yes.</p> <p>10 Q. And the students are the ones who are conducting</p> <p>11 research themselves?</p> <p>12 A. Yeah. In some cases, the students run participants.</p> <p>13 They might do data coding, data entry. They do a</p> <p>14 variety of tasks.</p> <p>15 Q. But you said you sometimes are a co-author on these</p> <p>16 studies?</p> <p>17 A. They are at times co-authors on the studies that I</p> <p>18 do within our laboratory.</p> <p>19 Q. Okay. So you may have an independent research</p> <p>20 project and then use this laboratory setting with</p> <p>21 the students to do further work on that research</p> <p>22 project you're doing, separate from the class?</p> <p>23 A. The class is the research project. So --</p> <p>24 I'm sorry. Do you want me to answer your</p> <p>25 question just yes or no?</p>
<p style="text-align: right;">Page 31</p> <p>1 A. Yes.</p> <p>2 Q. And pedagogical research is the study of teaching</p> <p>3 and the techniques used as an educator?</p> <p>4 A. It's the study of teaching and student learning.</p> <p>5 Q. Okay. So it's the study of educating, either as the</p> <p>6 educator or the student?</p> <p>7 A. Usually both combined.</p> <p>8 Q. Okay. Fair enough. So the DECCO award, was that</p> <p>9 given in any way for your disciplinary research?</p> <p>10 A. No.</p> <p>11 Q. And the FACET award, was that given in any way</p> <p>12 because of your disciplinary research?</p> <p>13 A. You said "in any way," so I'm going to say yes. And</p> <p>14 would you like me to clarify?</p> <p>15 Q. Sure.</p> <p>16 A. So as I mentioned to you, one of the courses that I</p> <p>17 teach is a research course. So strongly highlighted</p> <p>18 in my FACET application is my supervision of</p> <p>19 undergraduate research assistants. I have a very</p> <p>20 active laboratory where we do many activities</p> <p>21 related to research. And my primary role is to</p> <p>22 instruct them in the research method. So as part of</p> <p>23 my application for FACET, I highlighted this. And</p> <p>24 some of these students are co-authors on</p> <p>25 publications. So yes, my disciplinary research is</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. Please explain further.</p> <p>2 A. Okay. So the research is the class. We do not have</p> <p>3 the typical classroom instruction in the way that</p> <p>4 you might think of a class. We meet as a group. We</p> <p>5 discuss research. We discuss protocols. We amend</p> <p>6 protocols. We discuss theory. We talk about how</p> <p>7 theory relates to design. They -- my research</p> <p>8 assistants assist me on conceptualizing studies. I</p> <p>9 would say their involvement in that aspect is</p> <p>10 minimal. But they are integrated into the research</p> <p>11 process.</p> <p>12 So the goal of the class -- the goal of the</p> <p>13 class per se, is to teach them about research and</p> <p>14 research methodology. So we don't actually have a</p> <p>15 formalized classroom experience. The classroom</p> <p>16 experience is conducting research.</p> <p>17 Q. I understand. Okay. Moving on, one more award I</p> <p>18 wanted to talk about. The Multidisciplinary Faculty</p> <p>19 Scholar for the School of Arts & Sciences.</p> <p>20 A. Yes.</p> <p>21 Q. Do you know why you received that award?</p> <p>22 A. I put together an application with a couple of other</p> <p>23 faculty members. It's multi-disciplinary, so we</p> <p>24 represented different disciplines. And our</p> <p>25 application was accepted by the College of Arts &</p>

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<p>1 Sciences.</p> <p>2 Q. And was that award given because of any of your</p> <p>3 pedagogical research?</p> <p>4 A. No. No.</p> <p>5 Q. Was it given because of any of your disciplinary</p> <p>6 research?</p> <p>7 A. Given, no. But I was approached to do this by other</p> <p>8 faculty based on my developmental psychology</p> <p>9 research. They wanted a developmental psychologist</p> <p>10 in their project.</p> <p>11 Q. But the award wasn't given because of your</p> <p>12 developmental psychology research?</p> <p>13 A. I don't believe so. I wasn't on the committee who</p> <p>14 selected the award. I don't know what they looked</p> <p>15 at.</p> <p>16 Q. Okay. Would you consider it to be a research award?</p> <p>17 A. It is a research award in that it gave me a course</p> <p>18 release to conduct research.</p> <p>19 Q. Is it an award for honoring past research conducted?</p> <p>20 A. Not specifically.</p> <p>21 Q. So it's not an award for past research conducted?</p> <p>22 A. Again, I am not sure what the selection committee</p> <p>23 looks at. If they look at my CV and they say, we're</p> <p>24 going to give this award based on the fact that she</p> <p>25 has previous research that qualifies her as a</p>	<p>1 it was accepted, when it was submitted.</p> <p>2 Q. So it was maybe a year or two before 2009 when you</p> <p>3 started working on this area?</p> <p>4 A. I'm guessing about two years before 2009, was when</p> <p>5 the study was actually conducted. Before that --</p> <p>6 before you conduct a study, you usually do a little</p> <p>7 bit of gathering of information, a literature</p> <p>8 review. So 2007, perhaps even 2006. But</p> <p>9 conservatively, I will say about six years.</p> <p>10 Q. Okay. And this area of research interest, effects</p> <p>11 of technology on communication and relationship</p> <p>12 formation, this is how you described one of your</p> <p>13 areas of expertise. Correct?</p> <p>14 A. This is not exactly an area of expertise. This is</p> <p>15 my research interest. I'm not an expert in that.</p> <p>16 Q. So your area of expertise is more narrow than</p> <p>17 this --</p> <p>18 A. Yes.</p> <p>19 Q. -- research interest?</p> <p>20 A. I would say my present area of expertise is more</p> <p>21 narrow than my research interests, yes.</p> <p>22 Q. What's the difference between the two?</p> <p>23 A. Research interest is everything you're currently</p> <p>24 interested in studying. So I could say right now</p> <p>25 I'm very interested in studying the way that</p>
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<p>1 development psychologist, then it seems like what</p> <p>2 you are asking would be true. So I don't know. I</p> <p>3 don't know how the selection committee makes it. I</p> <p>4 would say that I don't think so.</p> <p>5 Q. Okay.</p> <p>6 A. Okay. I'm sorry.</p> <p>7 Q. No. That's fine. Thank you.</p> <p>8 I see a few of your areas of research interest</p> <p>9 on the front page. I wanted to find out more about</p> <p>10 these. So the first area you list is the "effects</p> <p>11 of technology on communication and relationship</p> <p>12 formation." I think we talked about this a little</p> <p>13 bit already. Is this another way of saying -- or</p> <p>14 this is one of your current areas of research</p> <p>15 interest. When did this become an area of research</p> <p>16 interest to you?</p> <p>17 A. It became an area of research interest when I began</p> <p>18 my texting and literacy studies. So I don't recall</p> <p>19 exactly when that was. I would guess about -- I</p> <p>20 guess I could look. So in 2009, I started looking</p> <p>21 -- or was my first publication for text speak and</p> <p>22 literacy. I suppose that research was conducted in</p> <p>23 2008 or 2007. So five to six years.</p> <p>24 Q. And you said this started in 2009?</p> <p>25 A. The publication was in 2009. I don't remember when</p>	<p>1 Facebook affects communication. That could be my</p> <p>2 primary area of interest. I could be conducting six</p> <p>3 studies about it right now. But I may not be an</p> <p>4 expert in the field.</p> <p>5 Q. So effects of technology on communication and</p> <p>6 relationship formation is one of your areas of</p> <p>7 research interest?</p> <p>8 A. That's right.</p> <p>9 Q. And how do you describe your area of expertise?</p> <p>10 A. I would say at present that I am -- my expertise is</p> <p>11 in young adult sexting.</p> <p>12 Q. So your area of expertise is limited to young adults</p> <p>13 and it's also limited to sexting?</p> <p>14 A. Area -- can you describe or further clarify for me</p> <p>15 what you are considering area of expertise?</p> <p>16 Q. I'm sorry. When I asked you before what was your --</p> <p>17 do you consider yourself to be an expert and in what</p> <p>18 area do you consider yourself to be an expert in,</p> <p>19 that was the answer you gave.</p> <p>20 A. So -- but area of expertise has a broader</p> <p>21 interpretation. Area of expertise can be personal.</p> <p>22 Area of expertise can be a socially-constructed</p> <p>23 idea. When I commented earlier and you asked if I</p> <p>24 believed myself an expert -- I don't remember your</p> <p>25 exact wording -- but that is true. I believe that</p>

<p style="text-align: right;">Page 38</p> <p>1 my research in young adult sexting is one of my</p> <p>2 areas of expertise.</p> <p>3 I'm not sure that I would consider myself an</p> <p>4 expert in the field in some of these other broader</p> <p>5 research interest categories.</p> <p>6 But I want to know your interpretation of</p> <p>7 expertise.</p> <p>8 Q. I don't have a set interpretation. So it might be</p> <p>9 more helpful, when you say you consider yourself to</p> <p>10 be an expert in sexting among young adults, what do</p> <p>11 you mean by that?</p> <p>12 A. I believe that I am one of the -- one of the only</p> <p>13 people who's studying young adult sexting as</p> <p>14 extensively as I am. I think there are few people</p> <p>15 in the country who are studying it this extensively,</p> <p>16 from the perspective that I'm looking at it.</p> <p>17 So there are people who are examining sexting</p> <p>18 from many different areas. There are people who are</p> <p>19 looking at youth sexting. There are people who are</p> <p>20 looking at the legal aspects and implications of</p> <p>21 sexting. But I'm looking at it from a psychological</p> <p>22 perspective. I was asked to attend a roundtable --</p> <p>23 let me see if I have it in my CV.</p> <p>24 Under presentations of disciplinary research --</p> <p>25 I have no page numbers, but it looks like on page 4.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. When you say "my area of psychology," you mean</p> <p>2 developmental psychology?</p> <p>3 A. I mean developmental psychology, yes. But I</p> <p>4 actually -- I don't know that other people -- people</p> <p>5 from different types of disciplines of psychology</p> <p>6 could be approaching this, but I will say just</p> <p>7 psychology -- as I recall, I was the only</p> <p>8 psychologist there who was examining youth --</p> <p>9 sorry -- young adult sexting.</p> <p>10 Q. Okay. You said you were at this roundtable based on</p> <p>11 some of your publications -- or that you discussed</p> <p>12 your publications at this roundtable?</p> <p>13 A. I did discuss my publications. I discussed my work</p> <p>14 at this roundtable. You know, it was in 2011, and</p> <p>15 my first publication that was published was in 2012.</p> <p>16 So I believe that they found me based on my</p> <p>17 presentation of -- on page 5 near the top,</p> <p>18 "Sexting, text message dependence, and intimacy</p> <p>19 among college students," which was a poster</p> <p>20 presented. A man named Andrew Harris was one of the</p> <p>21 co-organizers and Dana Boyd and they contacted me.</p> <p>22 I think Andrew Harris originally, Dana Boyd also</p> <p>23 subsequently, with regard to my participation in</p> <p>24 this roundtable discussion.</p> <p>25 Q. And you made a reference to one of your first</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Okay.</p> <p>2 A. About -- almost down to the bottom. You'll see in</p> <p>3 July of 2011, I had an invited presentation --</p> <p>4 invited paper at the Research Consortium on Youth</p> <p>5 and Sexting. I was invited to it because of my</p> <p>6 publication in sexting. There were about 20</p> <p>7 researchers from across the country who were</p> <p>8 invited. We met at the Microsoft offices to discuss</p> <p>9 sexting, the state of sexting. I believe that the</p> <p>10 people who were invited were all considered the</p> <p>11 leading contributors in the field at the time.</p> <p>12 Since that time, I've published more work and</p> <p>13 am conducting more studies on sexting. So it was</p> <p>14 fortified, I think, my position as a person who has</p> <p>15 expertise in this area. I was the only</p> <p>16 psychologist, I believe, who was in attendance. We</p> <p>17 were grouped by both age group -- and one of the</p> <p>18 only people looking at young adults. We were</p> <p>19 grouped by age group and discipline. So there were</p> <p>20 educators, ethnologists, I was a psychologist.</p> <p>21 There were -- there were other -- I think -- there</p> <p>22 were two lawyers there. But in my area of</p> <p>23 psychology, I'm one of the only people -- I was the</p> <p>24 only representative there who was looking at young</p> <p>25 adult sexting.</p>	<p style="text-align: right;">Page 41</p> <p>1 articles was published in 2012?</p> <p>2 A. Yes.</p> <p>3 Q. What article did you mean by that?</p> <p>4 A. "Texting, sexting, attachment, and intimacy" -- at</p> <p>5 the top of page 3 -- "in college students' romantic</p> <p>6 relationships."</p> <p>7 Q. Okay. And this article looked at sexting among</p> <p>8 young adults?</p> <p>9 A. Among other things, yes.</p> <p>10 Q. So broadly speaking, this was about sexting among</p> <p>11 young adults?</p> <p>12 A. Sexting and texting in a young adult, college --</p> <p>13 undergraduate sample.</p> <p>14 Q. Okay. And I see that you published a second article</p> <p>15 also about sexting in young adults in 2013?</p> <p>16 A. Yes, this year. It may not yet be in print, but I</p> <p>17 know it's online.</p> <p>18 Q. Okay. And this is the one called, "Let's talk about</p> <p>19 sexting, baby"?</p> <p>20 A. That's right.</p> <p>21 Q. Okay. Have you published any other articles on</p> <p>22 sexting in young adults?</p> <p>23 A. No, I have not.</p> <p>24 Q. So I want to go back to some of the presentations</p> <p>25 and roundtables you were involved in.</p>

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<p style="text-align: right;">Page 42</p> <p>1 A. Yes.</p> <p>2 Q. You pointed out the one in 2010 at the Midwestern</p> <p>3 Psychological Association in Chicago. Your</p> <p>4 involvement in that, was that based on any articles</p> <p>5 you had published about sexting in young adults?</p> <p>6 A. No. But I would assume that data that I presented</p> <p>7 there served as a basis either for study</p> <p>8 construction of my 2012 publication or as -- or it</p> <p>9 may have been -- either the data was used so that I</p> <p>10 could further construct a study or that this could</p> <p>11 have been preliminary data from that study.</p> <p>12 Q. So the study was already in motion at the time you</p> <p>13 participated in this presentation? The research</p> <p>14 that led to the publication of your 2012 article was</p> <p>15 already in motion at the time you participated in</p> <p>16 the 2010 annual meeting?</p> <p>17 A. The research line, yes, was already in motion. This</p> <p>18 particular subject of the 2012 publication, I'm not</p> <p>19 sure that this was the research that was already in</p> <p>20 motion.</p> <p>21 Q. Okay.</p> <p>22 A. But the research program had begun.</p> <p>23 Q. But your participation at the 2010 meeting was not</p> <p>24 based on your 2012 article, because that hadn't come</p> <p>25 out yet.</p>	<p style="text-align: right;">Page 44</p> <p>1 presentation.</p> <p>2 Q. Okay. And then your participation in a 2012 -- a</p> <p>3 May 2012 presentation, "Sexting among college</p> <p>4 students in different types of romantic</p> <p>5 relationships," had you published any articles on</p> <p>6 sexting in young adults at the time you gave this</p> <p>7 presentation?</p> <p>8 A. Yes, I had. The Drouin and Landgraff study on the</p> <p>9 top of page 3, "Texting, sexting, and attachment"</p> <p>10 was actually published online in, I think, December</p> <p>11 of 2011, and then came in print before I went to</p> <p>12 that conference, I believe -- as I recall.</p> <p>13 Q. So sometimes when we have a citation to an article</p> <p>14 and it has a year and a parenthetical, that refers</p> <p>15 to the print publication date?</p> <p>16 A. This is what it refers to in this document, yes.</p> <p>17 Q. Okay. So sometimes articles are released online</p> <p>18 before they come out in print?</p> <p>19 A. They are. And it's inconvenient when it's in a</p> <p>20 different year. It doesn't happen often.</p> <p>21 Q. Okay. Earlier, when we were trying to clarify your</p> <p>22 area of expertise, you mentioned you were one of the</p> <p>23 only people studying this issue -- you were one of</p> <p>24 the only people studying sexting among young adults</p> <p>25 as extensively as you have, from your perspective.</p>
<p style="text-align: right;">Page 43</p> <p>1 A. That's correct.</p> <p>2 Q. Similarly, when we look at your, I believe, the</p> <p>3 roundtable you pointed out --</p> <p>4 A. Yes.</p> <p>5 Q. -- that was in July 2011, "Sexting: A psychological</p> <p>6 perspective" --</p> <p>7 A. Yes.</p> <p>8 Q. Your participation in that roundtable was also not</p> <p>9 based on publication of an article about sexting in</p> <p>10 young adults, because that hadn't come out yet?</p> <p>11 A. "Based on" is an ambiguous term for me. I will say</p> <p>12 that some of the work that was later published may</p> <p>13 have been presented at that roundtable discussion.</p> <p>14 Q. But you hadn't --</p> <p>15 A. Is that what you meant?</p> <p>16 Q. I think that's fair. Let me try to ask a question</p> <p>17 in a different way.</p> <p>18 You were not invited to participate in the</p> <p>19 roundtable on the basis -- because you had published</p> <p>20 an article on young adults and sexting because you</p> <p>21 hadn't yet published an article on young adults and</p> <p>22 sexting at the time the roundtable took place.</p> <p>23 A. I believe -- yes, I was not selected because of the</p> <p>24 article. I believe they -- as I mentioned before, I</p> <p>25 believe that they recruited me based on my</p>	<p style="text-align: right;">Page 45</p> <p>1 A. From my perspective, yes.</p> <p>2 Q. What did you mean by only one? Or only one of the</p> <p>3 people?</p> <p>4 A. There are very few people who are conducting</p> <p>5 research on sexting and I'm one of them.</p> <p>6 Q. Do you know how many are conducting research on</p> <p>7 sexting?</p> <p>8 A. On young adult sexting? I could not possibly</p> <p>9 estimate the number of people who are conducting</p> <p>10 research on young adult sexting.</p> <p>11 Q. But you said you're one of the few?</p> <p>12 A. That has published research in this area.</p> <p>13 Q. Okay. So there could be many who are conducting</p> <p>14 research, but you know there are few who have</p> <p>15 published?</p> <p>16 A. Of the ones that I know, there are few, yes. You</p> <p>17 don't know of them until you see presentations or</p> <p>18 publications with their names on it.</p> <p>19 Q. Can you estimate how many have published?</p> <p>20 A. I don't even know.</p> <p>21 Q. But you know it's few?</p> <p>22 A. From a psychological perspective, I just don't know.</p> <p>23 I -- from my perspective, I have to -- I'm actively</p> <p>24 researching in this field, which means that any</p> <p>25 study that comes out on sexting, I'm reading and</p>

<p style="text-align: right;">Page 46</p> <p>1 adding to my literature review, which is always in</p> <p>2 progress -- a work in progress. So any new research</p> <p>3 that comes out is published, and I do extensive</p> <p>4 searches often for sexting research, I'm usually</p> <p>5 aware of.</p> <p>6 Now, these are the people who are publishing in</p> <p>7 the field. I have very few citations for</p> <p>8 psychological research that's related to sexting.</p> <p>9 There are few references for it. Not only that, I'm</p> <p>10 often asked by people who are conducting research in</p> <p>11 the field to cite my article, to have a copy of my</p> <p>12 article, if they can't get it otherwise from their</p> <p>13 institution. I am often asked to review articles on</p> <p>14 sexting.</p> <p>15 So as all of those things -- it's like</p> <p>16 converging evidence, that I am one of the people in</p> <p>17 the field who is currently publishing work. Working</p> <p>18 on it, I just can't even estimate. I have no idea.</p> <p>19 Q. So let's stick just with publication.</p> <p>20 A. Okay.</p> <p>21 Q. And you're saying there are few people who have</p> <p>22 published on young adults and sexting?</p> <p>23 A. I am one of the first people who began publishing on</p> <p>24 young adults and sexting. At present, the number of</p> <p>25 people is growing. And I just cannot even --</p>	<p style="text-align: right;">Page 48</p> <p>1 field. I'm one of the first who began to examine</p> <p>2 it. I'm asked to review articles often on the</p> <p>3 topic. I just would not feel comfortable making an</p> <p>4 estimate for the number of people who have</p> <p>5 published.</p> <p>6 Q. Do you know if people are asked to review?</p> <p>7 A. I am sure they are. There are at least two to three</p> <p>8 reviewers on most peer-reviewed journals.</p> <p>9 Q. Okay. Do you have an estimate of the number of</p> <p>10 people who are asked to review studies on sexting in</p> <p>11 young adults?</p> <p>12 A. I would estimate it's two to three. Can I clarify</p> <p>13 though that some of the journals, you don't have to</p> <p>14 be an expert in order to -- it doesn't have to be</p> <p>15 your disciplinary expertise. I am often, I think,</p> <p>16 tapped because -- for sexting studies to review,</p> <p>17 because I know something about sexting. But you</p> <p>18 could be asked to review an article because you know</p> <p>19 something about computer-mediated communication. Or</p> <p>20 you could be asked because you know something about</p> <p>21 the statistical techniques that were used within the</p> <p>22 article.</p> <p>23 Q. Okay. I'm still trying to understand your prior</p> <p>24 comment when you said you're one of the only people</p> <p>25 who has studied this issue. By that, you cannot</p>
<p style="text-align: right;">Page 47</p> <p>1 without doing a search today, I would not feel</p> <p>2 comfortable making an estimate about how many people</p> <p>3 that is. But I'm one of the first and I have an</p> <p>4 active lab where I'm continually presenting and</p> <p>5 publishing in this field and being asked to review</p> <p>6 studies in this.</p> <p>7 Q. And you're also keeping current with the literature,</p> <p>8 as you described?</p> <p>9 A. Yes.</p> <p>10 Q. So if you're keeping current with the literature and</p> <p>11 being asked to review studies, you can't give an</p> <p>12 estimate about --</p> <p>13 A. Asking --</p> <p>14 Q. -- who have published?</p> <p>15 A. -- to review studies, I'm blind to the authorship,</p> <p>16 so it could have been someone who's already</p> <p>17 published in the field. As well, I never know</p> <p>18 until -- you usually have a lag time of months to</p> <p>19 years before the study actually comes out in print.</p> <p>20 So things that I review are not necessarily going to</p> <p>21 get published. So I -- no, it's really impossible</p> <p>22 for me to estimate the number of people. I don't</p> <p>23 know how many things are under review. I don't know</p> <p>24 how many things have been accepted for publication.</p> <p>25 It's really difficult. This is a really emerging</p>	<p style="text-align: right;">Page 49</p> <p>1 make an estimate and say that there are few people</p> <p>2 who have studied young adults and sexting. Correct?</p> <p>3 A. No. And if I said studied, I think I used an</p> <p>4 incorrect word.</p> <p>5 Q. You can say you are one of the first people to have</p> <p>6 studied young adults and sexting. Correct?</p> <p>7 A. Based on my experience in being invited to the</p> <p>8 roundtable discussion, I would say yes.</p> <p>9 Q. Okay. So you do not feel comfortable saying you are</p> <p>10 one of the few people who have studied sexting in</p> <p>11 young adults?</p> <p>12 MS. BAUMGARDNER: Objection.</p> <p>13 A. If I used the word "studied," it was the wrong word.</p> <p>14 I think I was using studied as research --</p> <p>15 researched, meaning to publication. And the term</p> <p>16 "few," I think -- I consider -- I do not believe</p> <p>17 there are hundreds of people who have published</p> <p>18 psychological research on sexting in young adults.</p> <p>19 Q. But you cannot estimate the number of people who</p> <p>20 have published on sexting in young adults?</p> <p>21 A. Can I add something before I answer this question?</p> <p>22 It's a difficult question to answer because</p> <p>23 publishing something, you could have a paper that</p> <p>24 has five authors on it and only the primary author</p> <p>25 has done most of the work. And you have perhaps</p>

<p style="text-align: right;">Page 50</p> <p>1 other people who just helped with statistics or did 2 a variety of things.</p> <p>3 So when you say the number of people, you might 4 be meaning the number of people who are included on 5 an article. So maybe we would have 70 to a hundred 6 people who have been included on peer-reviewed 7 articles that examine a psychological perspective on 8 young adult sexting. But if you have five people on 9 an article, only one could possibly be originating 10 that research, understanding the theoretical 11 background of the research.</p> <p>12 So it's really difficult for me to estimate the 13 number of people who might contend with me as 14 experts in the field. So co-authors on publication 15 does not necessarily mean to me people who are 16 publishing actively in this field. You know, more 17 than one publication with the same authors might, 18 but I just don't remember that. I just don't 19 remember how many people might be doing that. So 20 it's a difficult question to estimate.</p> <p>21 Q. Can you estimate the number of primary authors of 22 studies on sexting in young adults?</p> <p>23 A. Sexting in young adults from a psychological 24 perspective? Are you talking about sexting in young 25 adults prevalence data that was in a peer-reviewed</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Could it be 25? Without -- I have not run a search 2 in the last, probably, three or four days on the -- 3 on sexting in young adults. I just don't know.</p> <p>4 This is such an emerging field that there 5 literally could be publications emerging every day. 6 So you asking me to estimate a number where I 7 haven't had a chance to look at my search sources to 8 see whether or not these primary authors exist, it's 9 really difficult for me to estimate. I'm not 10 comfortable doing it because of what could have been 11 published in the last week or two or in an obscure 12 journal that I wouldn't have access to.</p> <p>13 My estimate of 20 primary authors is 14 considering the fact that there are some articles 15 that are not indexed in psych info or psych articles 16 that would approach it from a psychological 17 perspective. Those journals could exist and 18 never -- someone's article could never be cited or 19 never be read because that journal doesn't have a 20 large readership. So what I have been in touch 21 with, I'm estimating 20 based on that fact. But 22 what I have seen personally, a psychological 23 perspective on young adult sexting, there are few -- 24 there are few articles that are approaching this 25 phenomenon from that perspective.</p>
<p style="text-align: right;">Page 51</p> <p>1 journal? Do you want me to limit it to 2 peer-reviewed journal?</p> <p>3 Q. Let's say, can you estimate the number of primary 4 authors who have published articles on sexting in 5 young adults from a psychological perspective?</p> <p>6 A. That I am aware of, probably 20.</p> <p>7 Q. And can you estimate the number of secondary or 8 co-authors for studies on sexting in young adults 9 from a psychological perspective?</p> <p>10 A. That's difficult to estimate. You would like me to 11 estimate it regardless?</p> <p>12 Q. If you can.</p> <p>13 A. If you -- I would say most articles have two or 14 three co-authors so -- some have four to five. If 15 you take an average of being three, then perhaps 60 16 from a psychological perspective.</p> <p>17 Q. Are you a primary author on sexting in young adults 18 from a psychological perspective?</p> <p>19 A. Yes.</p> <p>20 Q. So you are one of the 20 primary authors on sexting 21 in young adults from a psychological perspective?</p> <p>22 A. Yes. And 20 is an estimate.</p> <p>23 Q. Could it be much more than 20? Could it be 25?</p> <p>24 MS. BAUMGARDNER: Objection.</p> <p>25 Q. Could it be 25?</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. And what do you mean by few? Can you give me a 2 number for few?</p> <p>3 A. In my reference -- in my latest reference list of my 4 study published in 2013, I'm sure I had fewer than 5 ten.</p> <p>6 Q. Okay. Thank you for going through that.</p> <p>7 I also want to talk about some of the media 8 interviews and editorials you list on your CV.</p> <p>9 A. Yes.</p> <p>10 Q. I believe the first one you list that's related to 11 sexting is in 2011, an interview with Discovery 12 News.</p> <p>13 A. Okay.</p> <p>14 Q. Is that correct?</p> <p>15 A. Yes.</p> <p>16 MS. BAUMGARDNER: Can you point out where it 17 is?</p> <p>18 MR. SWINTON: Oh, I'm sorry. This is the 19 last page of the CV.</p> <p>20 MS. BAUMGARDNER: Okay. Thank you.</p> <p>21 A. Yes.</p> <p>22 Q. And you've been interviewed multiple times since 23 then?</p> <p>24 A. Yes.</p> <p>25 Q. How did Discovery News contact you?</p>

<p style="text-align: right;">Page 54</p> <p>1 A. Either by phone or e-mail very likely.</p> <p>2 Q. Do you know how they found out about you?</p> <p>3 A. Let's see. I can probably deduce. I believe it was</p> <p>4 from my presentation.</p> <p>5 Q. Okay. The interviews you gave from 2011 to the</p> <p>6 present, when you were talking about sexting and</p> <p>7 young adults. The information you discussed, was</p> <p>8 that based on anything other than your articles, the</p> <p>9 information discussed in your articles in 2012 and</p> <p>10 2013?</p> <p>11 A. I don't believe so.</p> <p>12 Q. So the interviews you gave that are listed on your</p> <p>13 CV from 2011 to the present were based only on</p> <p>14 information that you were studying in the articles</p> <p>15 that were published in 2012 and 2013?</p> <p>16 A. Yes. So data that I began collecting in probably --</p> <p>17 what did we determine -- 2010. And in these</p> <p>18 interviews, I may have been presenting parts of</p> <p>19 data. They may not have been the complete studies</p> <p>20 at that point. I don't recall specifically.</p> <p>21 Q. But the only studies about sexting in young adults</p> <p>22 you've conducted and for which you've published are</p> <p>23 discussed in the 2012, 2013 articles?</p> <p>24 A. For which I've published, yes.</p> <p>25 Q. And are there other studies that you've conducted?</p>	<p style="text-align: right;">Page 56</p> <p>1 A. My student co-authors.</p> <p>2 Q. And did you work with your student co-authors on all</p> <p>3 three or four of those studies?</p> <p>4 A. Yes. I believe I did.</p> <p>5 Q. So none of the studies you did completely</p> <p>6 independent?</p> <p>7 A. No. They're involved in various things. These are</p> <p>8 online studies, so my students would have been</p> <p>9 recording credit for students who completed the</p> <p>10 study. And --</p> <p>11 Q. Just -- go ahead. I'm sorry.</p> <p>12 A. -- doing other tasks related to the research.</p> <p>13 Q. Okay.</p> <p>14 A. Gathering sources, things like that.</p> <p>15 Q. And what types of tasks would they do?</p> <p>16 A. Let's see. They would do when a study -- building a</p> <p>17 survey. So creating a survey in a program called</p> <p>18 Qualtrics, which is an online survey software. They</p> <p>19 would, once the study is ongoing, grant credit for</p> <p>20 people who have participated in studies as part of a</p> <p>21 research requirement or a research option. And they</p> <p>22 would -- when I export the data from the system,</p> <p>23 they would do kind of initial cleaning of a file, so</p> <p>24 that the questions were truncated so that you</p> <p>25 wouldn't have the full question in the label.</p>
<p style="text-align: right;">Page 55</p> <p>1 A. Are there other studies that I've conducted? I</p> <p>2 mean, yes.</p> <p>3 Q. I'm sorry. Other studies that you've conducted on</p> <p>4 sexting in young adults?</p> <p>5 A. Yes. I'm conducting studies presently on sexting in</p> <p>6 young adults.</p> <p>7 Q. Are there any studies that you've conducted on</p> <p>8 sexting in young adults that you've concluded that</p> <p>9 weren't discussed in the 2012, 2013 articles?</p> <p>10 A. The 2012, 2013 articles give a snapshot of larger</p> <p>11 studies. So that does not wholly encapsulate the</p> <p>12 work. So they were larger studies in scope than</p> <p>13 what was reported. So the studies are concluded,</p> <p>14 but some of the data were not published.</p> <p>15 Q. Okay. How many studies on sexting in young adults</p> <p>16 have you conducted?</p> <p>17 A. And am presently conducting?</p> <p>18 Q. Let's say you have conducted and have concluded.</p> <p>19 A. Conducted and concluded, three to four probably.</p> <p>20 Q. Do you know the exact number?</p> <p>21 A. I don't. My studies go over multiple years usually.</p> <p>22 So I believe that I've concluded three to four of</p> <p>23 them. And by concluded, I mean the study is</p> <p>24 completely over, closed with the ethics board.</p> <p>25 Q. Did you work on those studies with anybody else?</p>	<p style="text-align: right;">Page 57</p> <p>1 They help with the conceptualization of</p> <p>2 protocols. I might ask them -- I usually have a</p> <p>3 research team of five to ten students. I might ask</p> <p>4 them what -- would this type of question be</p> <p>5 appropriate? Would this kind of question -- is it</p> <p>6 broad enough or narrow enough to capture what we're</p> <p>7 looking at?</p> <p>8 One of my recent studies which is -- I'm</p> <p>9 including in concluded is an unwanted but consensual</p> <p>10 sexting study. And the student actually came up</p> <p>11 with the idea of looking at it from an unwanted but</p> <p>12 consensual sexting perspective. So that student was</p> <p>13 involved with the conceptualization.</p> <p>14 Q. Have you worked on these studies with anyone other</p> <p>15 than students?</p> <p>16 A. These studies that have been concluded, no.</p> <p>17 Q. So none of the studies that have been concluded --</p> <p>18 I'm sorry. Let me rephrase the question.</p> <p>19 You didn't work with anybody on any of the</p> <p>20 studies that have been concluded other than</p> <p>21 students?</p> <p>22 A. That's right.</p> <p>23 Q. And you have -- you estimate that you have three to</p> <p>24 four studies that have been concluded about sexting</p> <p>25 and young adults?</p>

<p style="text-align: right;">Page 58</p> <p>1 A. Yes.</p> <p>2 Q. And do you currently have ongoing studies?</p> <p>3 A. I do.</p> <p>4 Q. How many ongoing studies do you have?</p> <p>5 A. I have, I think, two ongoing studies about sexting</p> <p>6 in young adults. By ongoing, I mean one of them is</p> <p>7 going -- we're doing the ethics board approval</p> <p>8 application right now. So ongoing in that it's</p> <p>9 already been conceptualized.</p> <p>10 Q. So the ethics board approval is at the end of the</p> <p>11 process?</p> <p>12 A. Beginning.</p> <p>13 Q. Beginning of the process?</p> <p>14 A. Yeah.</p> <p>15 Q. Okay. And are you working with anybody else on</p> <p>16 these ongoing studies?</p> <p>17 A. One of them, yes. I'm working with someone else in</p> <p>18 my department who studies intimate partner violence.</p> <p>19 Q. So that person is a professor?</p> <p>20 A. Yes.</p> <p>21 Q. In the psychology department?</p> <p>22 A. Yes.</p> <p>23 Q. And the other study, you're working on it</p> <p>24 independently?</p> <p>25 A. I think I'm -- just with my students.</p>	<p style="text-align: right;">Page 60</p> <p>1 study.</p> <p>2 Q. Or one facet of the study, as you put it?</p> <p>3 A. Yes. Yes.</p> <p>4 Q. Okay. Do you ever publish an article about a study</p> <p>5 that has not been completed?</p> <p>6 A. I could see that I might. I don't know if I ever</p> <p>7 have. But I could see that you could. So maybe you</p> <p>8 publish something and then you decide, actually I</p> <p>9 want to collect more data. So you would have that</p> <p>10 under the same umbrella of the same study and then</p> <p>11 collect additional data. I would say it's rare, and</p> <p>12 I don't know that I've ever done it.</p> <p>13 Q. So the 2012 article on sexting in young adults, the</p> <p>14 information discussed in that article was taken from</p> <p>15 only a concluded study?</p> <p>16 A. I believe so.</p> <p>17 Q. And the 2013 article, the information discussed in</p> <p>18 the 2013 article, was taken only from a concluded</p> <p>19 study?</p> <p>20 A. Yes, I believe so. By -- can you clarify concluded?</p> <p>21 Q. I'm thinking of concluded as the three to four</p> <p>22 studies that you have described as being concluded.</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And what did you mean when you said that</p> <p>25 these three to four studies had been concluded?</p>
<p style="text-align: right;">Page 59</p> <p>1 Q. Okay. Now, you said the article that you published</p> <p>2 in 2012 and then you published another one in 2013,</p> <p>3 you said that those were snapshots of your research.</p> <p>4 Does this mean -- let me rephrase that.</p> <p>5 Were those articles based on any -- were those</p> <p>6 articles summarizing a concluded study?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 A. I said yes to the concluded part. But summarizing,</p> <p>10 oftentimes you can conduct a study, especially ones</p> <p>11 that are more exploratory in nature and you are</p> <p>12 looking at different things. So sometimes you do a</p> <p>13 study and you can publish two or three or four</p> <p>14 articles from the same study, looking at it from a</p> <p>15 different perspective.</p> <p>16 I haven't yet done that with this research</p> <p>17 because of time constraints and my desire to</p> <p>18 actually do more and more studies. But the research</p> <p>19 is concluded. I don't know that it summarizes</p> <p>20 everything that I did within those studies. They</p> <p>21 were multi-faceted and it captures one facet of what</p> <p>22 I did in those studies.</p> <p>23 Q. So an article, a published article, might just be</p> <p>24 describing one angle of a study?</p> <p>25 A. Yes, it might just be describing one angle of the</p>	<p style="text-align: right;">Page 61</p> <p>1 A. I mean that I don't intend to collect any more data</p> <p>2 on those studies.</p> <p>3 Q. Okay. So when you said that the 2012 article was a</p> <p>4 snapshot of your research, that meant it was looking</p> <p>5 at one facet of a concluded study?</p> <p>6 A. Yes.</p> <p>7 Q. And the 2013 article, when you described that as</p> <p>8 being a snapshot of your research, it meant that it</p> <p>9 was looking at one facet of completed research?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Have you published any articles about your</p> <p>12 ongoing studies?</p> <p>13 A. Not yet.</p> <p>14 Q. And do you intend to?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. If you could turn to page 6 of your CV, under</p> <p>17 the heading service.</p> <p>18 A. Yes.</p> <p>19 Q. I had a few questions. The first entry lists the</p> <p>20 IPFW Peer Review Committee. Correct?</p> <p>21 A. Yes.</p> <p>22 Q. Does this mean you're a member of the peer review</p> <p>23 committee?</p> <p>24 A. Yes. And I actually -- the peer review committee is</p> <p>25 the larger governing body. It's actually a teaching</p>

<p style="text-align: right;">Page 62</p> <p>1 fellows appointment, so -- I'm a teaching fellow.</p> <p>2 Q. And what is a teaching fellow?</p> <p>3 A. A teaching fellow is someone who provides</p> <p>4 consultations to other teachers on campus.</p> <p>5 Q. And by teachers, do you mean professors?</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 A. They could be -- "professor" is a term that we use</p> <p>9 only to refer to people who are on tenure track.</p> <p>10 Other limited-term lecturers, continuing --</p> <p>11 continuing lecturers, all of these people could</p> <p>12 have -- potentially have a teaching review.</p> <p>13 Q. But it's not, say, like a student teacher who's</p> <p>14 assisting a professor with a class?</p> <p>15 A. No.</p> <p>16 Q. Okay. And so what do you do as a teaching fellow?</p> <p>17 A. As a teaching fellow, I can review -- it's driven by</p> <p>18 the faculty member. So they request that someone</p> <p>19 assist them with their teaching, in some aspect of</p> <p>20 their teaching. So it could be a syllabus review.</p> <p>21 It could be looking over their student evaluation</p> <p>22 data. It could be observing their class, and then</p> <p>23 you provide them feedback. Again, driven by them,</p> <p>24 the type of feedback that they would like.</p> <p>25 Q. This is kind of like a mentorship?</p>	<p style="text-align: right;">Page 64</p> <p>1 ultimately rejected. But other people kind of</p> <p>2 giving validation to your work, your methods, the</p> <p>3 way in which you've presented your work.</p> <p>4 Q. When you say "methods," do you mean research</p> <p>5 methods?</p> <p>6 A. Yes, research methods.</p> <p>7 Q. And what do you mean when you say that it gives</p> <p>8 validation?</p> <p>9 A. It gives validation because you have other people</p> <p>10 who are experts saying I believe what this person</p> <p>11 has done is sound.</p> <p>12 Q. And the expert has expertise in the discipline being</p> <p>13 discussed in the article?</p> <p>14 A. You're supposed to. When you -- this is done in</p> <p>15 different ways. Oftentimes, I'm approached by, for</p> <p>16 example, if you look at my manuscript reviews under</p> <p>17 my professional service, which is on the very next</p> <p>18 page, you have a variety of journals listed here.</p> <p>19 And some of these journals contacted me because they</p> <p>20 know who I am, based on the fact that perhaps I was</p> <p>21 cited in research. So they consider me having</p> <p>22 expertise in the field, and they will say that when</p> <p>23 they contact me. You appear to have expertise in</p> <p>24 this field -- I don't even think they say appear.</p> <p>25 As an expert in the field, we would like you to</p>
<p style="text-align: right;">Page 63</p> <p>1 A. A mini-mentorship.</p> <p>2 Q. Okay. A mini-mentorship. So in this context, peer</p> <p>3 review does not mean the same as like a</p> <p>4 peer-reviewed article?</p> <p>5 A. No.</p> <p>6 Q. Okay. So it's a completely different concept?</p> <p>7 A. It is. I mean, the only similarity is that in a</p> <p>8 peer-reviewed article, you would have other people</p> <p>9 looking at what you do, and saying I think this is</p> <p>10 something that's good. So in a broad sense, I guess</p> <p>11 peer review does apply to both.</p> <p>12 Q. They both use the word "peer"?</p> <p>13 A. They both use the words "peer review."</p> <p>14 Q. Okay. Correct.</p> <p>15 A. The term "peer review."</p> <p>16 Q. And can you describe more fully what do we mean,</p> <p>17 peer review, when we think about it in the terms of</p> <p>18 scholarly articles?</p> <p>19 A. Peer review is other people who have expertise,</p> <p>20 ideally in the field, or other people who have</p> <p>21 experience in the field examining your work, reading</p> <p>22 through your work and giving it constructive</p> <p>23 criticism. Peer review, there's always constructive</p> <p>24 criticism, even if -- well, ideally, there is always</p> <p>25 constructive criticism even if an article is</p>	<p style="text-align: right;">Page 65</p> <p>1 review this article.</p> <p>2 Another way expertise can be determined in the</p> <p>3 field is some journals will ask you to indicate your</p> <p>4 own areas of expertise. I would say this is less</p> <p>5 common. I only had a few journals -- and I don't</p> <p>6 recall which ones -- who've asked you to indicate</p> <p>7 your areas of expertise. So that if an article does</p> <p>8 come through, they can contact people who have those</p> <p>9 areas of expertise.</p> <p>10 More likely, for most of these, I was cited,</p> <p>11 sometimes the primary one cited in an article. And</p> <p>12 then I was asked to review that article.</p> <p>13 Q. So it sounds like there are kind of two ways you can</p> <p>14 be considered to be an expert in the field for</p> <p>15 purposes of peer review. You can be cited or</p> <p>16 referred to in literature and the journal will then</p> <p>17 contact you --</p> <p>18 A. Yes.</p> <p>19 Q. -- is the first way.</p> <p>20 A. Yes.</p> <p>21 Q. The second way is that you provide a journal with</p> <p>22 your -- with what you consider to be areas of</p> <p>23 expertise and then you're on-call in case an</p> <p>24 article -- in case the journal will publish an</p> <p>25 article in that field, and they'll then contact you.</p>

<p style="text-align: right;">Page 66</p> <p>1 A. Yes. And the latter description is much less common</p> <p>2 in my experience. You usually would have that if</p> <p>3 you were submitting an article. So it wouldn't</p> <p>4 be -- I guess you could apply to be a reviewer, a</p> <p>5 peer reviewer just because you're interested in that</p> <p>6 journal. But typically, you're only asked for this</p> <p>7 type of information if maybe you're submitting a</p> <p>8 manuscript or if they had already asked you to</p> <p>9 submit a review and you go into the system and</p> <p>10 you're submitting the review and they say can we</p> <p>11 also then clarify your areas of expertise.</p> <p>12 Q. Okay. So I know you said earlier that having an</p> <p>13 article -- if an article is -- if a published</p> <p>14 article has been peer reviewed, it gives validation</p> <p>15 to that article?</p> <p>16 A. More than if I just published it myself, yes.</p> <p>17 Q. Will the journals accept articles that aren't peer</p> <p>18 reviewed?</p> <p>19 A. Some do, yes.</p> <p>20 Q. And so if you were reading an article on sexting in</p> <p>21 young adults that wasn't peer reviewed, would you --</p> <p>22 what would you think about that article and the fact</p> <p>23 it wasn't peer reviewed?</p> <p>24 A. This is an interesting question. So there have been</p> <p>25 surveys that have been conducted that were not peer</p>	<p style="text-align: right;">Page 68</p> <p>1 polling. So how can we describe -- how do you</p> <p>2 describe the type of research that you do?</p> <p>3 A. Okay. So the research that I do, I'm looking at</p> <p>4 human behavior in a broader sense. So I'm usually</p> <p>5 trying to contribute to theory in some way. The</p> <p>6 driving force of my research is to build upon</p> <p>7 developmental -- or in a broad sense, human --</p> <p>8 theory. Theory about the ways that humans might</p> <p>9 interact or humans might communicate. So what you</p> <p>10 have then is usually you begin with some examination</p> <p>11 of a theory and where it might fit in.</p> <p>12 What -- I'm distinguishing that from polling</p> <p>13 data, which may just be interested in prevalence.</p> <p>14 So the primary goal of that type of research, again</p> <p>15 broadly used, is to see how often something is</p> <p>16 occurring. And it's actually -- the goal of it is</p> <p>17 not to relate it to or build upon any particular</p> <p>18 theory of human development or interaction or</p> <p>19 whatever theory. The goal of it is to just look at</p> <p>20 prevalence. And it's not -- it's a different -- I'm</p> <p>21 not going to say that isn't a scientific approach,</p> <p>22 so it's a different scientific approach.</p> <p>23 Q. So is it fair to say that the main difference</p> <p>24 between the two types of research you were</p> <p>25 discussing is one is polling to obtain pure hard</p>
<p style="text-align: right;">Page 67</p> <p>1 reviewed. The Sex and Tech survey, the MTV and</p> <p>2 Associated Press survey, and those surveys are</p> <p>3 surveys. So there's a distinction here between</p> <p>4 research related to psychological phenomena -- so</p> <p>5 that would be one type of research that I would</p> <p>6 expect to see in a peer-reviewed journal. But</p> <p>7 things that are not peer reviewed, like anything</p> <p>8 coming out from Nielsen Mobile about text message</p> <p>9 use or something coming out from the Pew Foundation</p> <p>10 about peoples use of text messaging. These are not</p> <p>11 peer reviewed but they -- they employ a different</p> <p>12 methodology. So you're talking about two really</p> <p>13 different types of research. "Research," I'm saying</p> <p>14 that as a loose term.</p> <p>15 Q. Sure.</p> <p>16 A. So from a psychological perspective, the type of</p> <p>17 research that I conduct, which is not just polling</p> <p>18 people, okay? That type of research, I would -- if</p> <p>19 it's not in a peer-reviewed journal, I would --</p> <p>20 well, first of all, may not ever come in contact</p> <p>21 with it, because the search engines that I use may</p> <p>22 not pull it up. But as well, I might be a little</p> <p>23 bit less likely to cite it.</p> <p>24 Q. And it might help to distinguish between what you</p> <p>25 say the type of research that you do versus the</p>	<p style="text-align: right;">Page 69</p> <p>1 data. And then the other type is conducting studies</p> <p>2 and then having that data contribute to a greater</p> <p>3 theory?</p> <p>4 A. Yes. And social science research largely has that</p> <p>5 goal. So that is the standard method of social</p> <p>6 science research, is to contribute to theory. The</p> <p>7 other type of research that you're referring to, the</p> <p>8 polling and getting the exact numbers, would be</p> <p>9 undertaken by different types of groups.</p> <p>10 Q. The polling groups might not be associated with</p> <p>11 universities and colleges as much, for example?</p> <p>12 A. Yeah. I don't know of social scientists who conduct</p> <p>13 polls. I don't know any. But --</p> <p>14 Q. Okay.</p> <p>15 A. -- it's certainly not the common method.</p> <p>16 Q. Whereas, the social science research is typically</p> <p>17 associated with a university or a college?</p> <p>18 A. Social science research is associated very often, I</p> <p>19 think, with a university or a college, but it</p> <p>20 doesn't have to be.</p> <p>21 Q. So in the social science research, you would expect</p> <p>22 to see an article -- let me rephrase that question.</p> <p>23 In the social science research, would you give</p> <p>24 more weight to an article that's been peer reviewed?</p> <p>25 A. Give more weight in what way?</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. For social science articles, would you be more 2 likely to trust the conclusions drawn in an article 3 that has been peer reviewed? 4 A. Trust the conclusions, I guess that's not a term 5 that I would use. But I guess if you'd distill it 6 down, perhaps. I'm more likely to cite it. I could 7 use it. I might think that what they've done -- if 8 I read it and I think their methodology was sound. 9 There are a lot of things that prevent articles from 10 surfacing in peer-reviewed journals. Sound 11 methodology is one, insufficient results are 12 another. 13 But I would not say a paper has no merit if 14 it's not published in a peer-reviewed journal. 15 Sometimes the person isn't a very good writer. And 16 so their work never finds its way to a venue that 17 maybe is appropriate for the methodology. I've 18 conducted quite a few reviews in the last few years, 19 and that is a stumbling block for some of the papers 20 that are submitted. It's just not presented in a 21 way -- the research might be sound, but it's not 22 presented in a way that can contribute in a 23 meaningful way. 24 So if I read something in a non-peer-reviewed 25 journal, I would probably look myself at the</p>	<p style="text-align: right;">Page 72</p> <p>1 field is, I think, appropriate. So I'm not sure 2 that they're all from peer-reviewed journals. But 3 again, as an emerging field, you have to say this 4 work has been done, if I can find it then it had 5 been done. 6 Q. What about in a non-emerging field? 7 A. In a non-emerging field, I think, unless you're 8 citing, like, prevalence data or, you know, these 9 studies that are focused on prevalence really, I 10 think it would be rare to find someone who uses many 11 non-peer-reviewed sources. 12 Q. Okay. Was your 2012 article peer reviewed? 13 A. Yes. 14 Q. And was your 2013 article peer reviewed? 15 A. Yes. 16 Q. Have any of your articles not been peer reviewed? 17 A. No. 18 Q. So all of your published articles have been peer 19 reviewed? 20 A. Yes. 21 Q. Would you feel comfortable publishing something 22 that's not peer reviewed? 23 MS. BAUMGARDNER: Objection. 24 A. Would I feel comfortable? If I were working for the 25 Pew Foundation, I'd feel very comfortable publishing</p>
<p style="text-align: right;">Page 71</p> <p>1 methodology and the results. And I could maybe use 2 that. It would be unlikely that it would be in my 3 radar though. These -- I actually don't even know 4 of a journal that I would reference that is not peer 5 reviewed. 6 Q. So the journals you look at when you do your 7 literature review, for example, are all 8 peer-reviewed journals? 9 A. For the most part, they would be. In sexting, it's 10 a different -- it's an emerging field still. So 11 I've been a little bit more lenient in just getting 12 any information. So something I might reference as 13 being done, it may not have been in a peer-reviewed 14 journal, but I just want to say someone has looked 15 at something and this is what they found. Anyone 16 who is a researcher would then look at the reference 17 list and see, well, where was this published? 18 I think in my original publication, I listed a 19 reference for a paper that hadn't even been 20 published anywhere. It's just something I think 21 someone -- or if it was published, it was in 22 something that was not peer reviewed or some source 23 that wasn't, in my mind, very reputable. But they 24 had still done some work in it. So to acknowledge 25 that someone has done something, in an emerging</p>	<p style="text-align: right;">Page 73</p> <p>1 something that was not peer reviewed. If I were 2 working for Nielsen Mobile, I'd feel very 3 comfortable. 4 My role as an educator in my university, I 5 would never submit my articles or my manuscripts -- 6 peer review, I think, is an important part of the 7 publication process. I would want to always have 8 someone look over my paper before it was published. 9 Q. Sure. 10 A. Not only because of the credibility issue, but as -- 11 because it's a useful process, to get another set of 12 eyes on the work that you've completed. 13 Q. So as a researcher in developmental psychology, if 14 you had the choice between publishing an article 15 that's not peer reviewed and not publishing at all, 16 which would you choose? 17 A. It depends on the topic. 18 Q. Okay. In the area of sexting in young adults. 19 A. I feel that the area of sexting in young adults is 20 still in its emergent phase. We still -- it's 21 research that is -- hasn't been around for 20 years. 22 So because of that, I think I would feel comfortable 23 putting something out that was not peer reviewed if 24 it were never going to find another venue. 25 In emerging fields, there's something called</p>

<p style="text-align: right;">Page 74</p> <p>1 "the file drawer phenomenon." I don't know if 2 you've ever heard of it, but probably not. So 3 sometimes people will conduct research and not find 4 anything that's significant. And if you don't find 5 any relationships that are significant or you don't 6 contribute to theory in any way, you sometimes -- 7 people will not publish that research. Because it's 8 harder to find a venue if you're saying I didn't 9 find anything significant here. I didn't find 10 anything that would contribute to this theory, help 11 further this theory. So what you have is an 12 interesting phenomenon called the file drawer 13 phenomenon. So people just take that study and they 14 put it in a file drawer. 15 Well, particularly for emerging fields, I think 16 it would be important for those things that might 17 get stashed away in a file drawer to be available to 18 the public, so that I wouldn't have to go down any 19 routes that other people have already gone down 20 unsuccessfully. 21 So it's as if a rat went down the thing and 22 said, okay, guys. There's nothing down this arm of 23 the radial maze. You know, move on to another arm. 24 So in that case, if I couldn't get something 25 published in a peer-reviewed journal, specifically,</p>	<p style="text-align: right;">Page 76</p> <p>1 even though it's not a peer-reviewed journal. So 2 there are different types of sources that you might 3 use, even in very well established fields, and not 4 all of them would be peer-reviewed sources. 5 Anything that's contributing to the theoretical 6 knowledge of the field, I would feel most 7 comfortable if those are articles were peer 8 reviewed. 9 Q. Thinking now of the separate context of the pure 10 polling data that groups like Pew conduct, is there 11 any peer-review process in that field? 12 A. Not that I know of. I'm not sure. 13 Q. Okay. I'm sorry. I actually want to jump back to 14 something you said a little while ago. I wanted 15 just to touch on it. This goes back to when we were 16 discussing and trying to estimate the number of 17 people who are studying sexting in young adults from 18 the perspective of psychology. And I think you had 19 said that, you know, you are one of the only people 20 who had studied it as extensively. What did you 21 mean by "extensively"? 22 A. In my field of psychology, looking at the -- like, 23 the psychological drives and correlates of sexting, 24 having three or four studies completed in the field 25 is -- is pretty good at this point, because it is an</p>
<p style="text-align: right;">Page 75</p> <p>1 that would be a good example of something that may 2 not be appealing to a peer-review journal, I would 3 be tempted in this emerging field to help further 4 the field. 5 Q. So in the context of sexting in young adults, you 6 don't feel -- you don't think it's as important to 7 have peer-reviewed articles? 8 MS. BAUMGARDNER: Objection. I don't think 9 that's what she said. 10 A. I think having a peer-reviewed article is very 11 important to further the field. And I think that is 12 what I said. But I think in an emerging field, 13 things that are not peer reviewed can still have 14 merit in contribution to our understanding of the 15 phenomenon. 16 Q. And in an emerging field, you would be more likely 17 to consider non-peer reviewed than in a non-emerging 18 field. 19 A. No. I wouldn't say that. Even if I were 20 publishing -- if I were publishing in literacy 21 research -- we have decades and decades and decades 22 of literary research. If I found something that was 23 published by a body like the Pew Foundation that 24 gave statistics about what people are doing in the 25 United States, I'd be very comfortable citing that,</p>	<p style="text-align: right;">Page 77</p> <p>1 emerging field. 2 Does that answer your question? 3 Q. It does. So it's the number of studies that you've 4 completed in an emerging field is what you consider 5 to be extensive? 6 A. The number of studies in the emerging field, as well 7 as my -- the number of ongoing studies that I have 8 and -- yeah. I guess that would be. I can think of 9 people who have kind of conducted continual studies 10 in this area. And I can think of people who I only 11 know of them publishing once in this field. So, 12 yes, in comparison, I am one of the people who's 13 publishing more in this field. 14 Q. Has anybody published more than four studies on 15 sexting in young adults? 16 A. Sexting in young adults, not that I know of. 17 Q. Has anybody published three studies on sexting in 18 young adults? 19 A. Not that I know of. 20 Q. What about two studies on sexting in young adults? 21 A. Yes, I believe a couple of people have done two 22 studies. 23 Q. So two people have done two studies on sexting in 24 young adults? 25 A. I don't know the exact number.</p>

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<p style="text-align: right;">Page 78</p> <p>1 Q. And you said some people have published one study on 2 sexting in young adults. Correct?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know how many people have published one 5 study?</p> <p>6 A. No, I don't. I mean, I can think of one person in 7 particular, the only published study I know. But I 8 don't know how many exactly. I don't usually follow 9 the paper trail of authors. Though if a particular 10 study piques my interest, then I might see what else 11 they are doing. What is their current work?</p> <p>12 Q. Okay.</p> <p>13 A. And see if they're pursuing it any more. So -- but 14 that would be rare.</p> <p>15 Q. So what does your literature review involve?</p> <p>16 A. My literature review involves --</p> <p>17 Q. I'm sorry. Excuse me. For sexting in young adults.</p> <p>18 A. Okay. So I would -- various things. Initially, 19 there were very few search terms that would return 20 any hits in my common psych info, psych articles. I 21 use Academic Premiere Pro. I use a variety of 22 databases and put in various terms. So 23 computer-mediated sex, sexual activity, online, 24 mobile phones -- I mean, you put in a number of 25 search terms.</p>	<p style="text-align: right;">Page 80</p> <p>1 other researchers have done, what have they 2 referenced, so kind of a snowball method.</p> <p>3 Q. Do you become familiar with certain authors or 4 researchers as you're doing a literature review?</p> <p>5 A. Familiar, can you describe what you mean?</p> <p>6 Q. Do you ever see multiple publications by a 7 particular author or researcher when you're doing a 8 literature review?</p> <p>9 A. In this area or in --</p> <p>10 Q. Yes. In sexting in young adults.</p> <p>11 A. In sexting, you only have a few people who would 12 have multiple articles that would come up via these 13 searches. If I'm doing a search in literacy, then 14 you would have far more that would have multiple 15 publications.</p> <p>16 Q. Who are some of the other researchers or people who 17 published articles about sexting in young adults 18 that you've seen come up multiple times when you do 19 your literature review?</p> <p>20 A. I haven't seen -- I could tell you in youth sexting, 21 the other lab that's quite active is the one that 22 Finkelhor, Mitchell -- their group has been cited 23 more than once. They have a few articles. "A few" 24 I use loosely. I don't know if it's two or three. 25 I see my work as very separate from youth sexting,</p>
<p style="text-align: right;">Page 79</p> <p>1 And initially, when I was doing my research, 2 when I would try to do such searches, very few 3 things would come up. Because these databases, they 4 will reference things are that are not peer reviewed 5 sometimes. But there's a heavy emphasis on 6 peer-reviewed articles. And journals that have -- 7 journals have to, I suppose, pay to have their 8 journals indexed within these databases. So usually 9 you have more prestigious journals represented.</p> <p>10 In any case, so when I first would do these 11 searches, very little would come up using multiple 12 search terms. So I would just use Google and try to 13 find anything out there. And -- which is the way 14 that I think some people found my research 15 initially. You would just type in the same types of 16 words that you might use in a academic search. I 17 guess, the words -- I would use a more layperson's 18 terms. So I would probably use sexting in a Google 19 search, whereas in a academic search, I might use 20 different types of words more often. So I would do 21 both the search of just generally what's out there.</p> <p>22 And sometimes those links would lead you to 23 other places. If I did happen to find an article on 24 sexting, I would look at their reference list, then 25 use their reference list to go out and see what</p>	<p style="text-align: right;">Page 81</p> <p>1 so I only cite it in talking about the methodologies 2 that they might employ of how a similar vein of 3 research might also -- or should be extended to 4 young adult sexting.</p> <p>5 Q. So is there anyone well known who's researched or 6 published in the area of young adults and sexting?</p> <p>7 A. From my -- that are applicable to my studies? 8 Applicable to my -- so my research is looking at not 9 just sexting in a prevalence way, but sexting from a 10 psychological perspective and also, like, risks -- 11 my latest one is risks and feared risks associated 12 with it. So I'm talking about a narrow thing.</p> <p>13 So some people might be doing research in 14 sexting that is not really applicable to the types 15 of things that I'm looking at. So in the types of 16 things that I'm looking at, no. I don't see -- I 17 don't have people who are listed multiple times as 18 authors in this area in what I'm looking at 19 specifically in young adult sexting.</p> <p>20 Q. Okay. And that's one of the reasons why you think 21 that you are one of the more -- you have conducted 22 more extensive research in this field?</p> <p>23 A. In this area, yes.</p> <p>24 Q. From a psychological perspective?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 82</p> <p>1 Q. What about more broadly? Are there any well known</p> <p>2 people who have studied -- are there any people who</p> <p>3 are well known because of their work on sexting in</p> <p>4 young adults?</p> <p>5 A. Can you describe well known to me?</p> <p>6 Q. Are there any studies that you can think of -- let</p> <p>7 me start over.</p> <p>8 If you were going to -- if a new person was</p> <p>9 going to look at sexting in young adults --</p> <p>10 A. Yes.</p> <p>11 Q. -- are there any studies that you would point that</p> <p>12 person to as something that is essential to the</p> <p>13 field to understand when they start out with their</p> <p>14 research?</p> <p>15 A. Can you tell me what this person would be studying</p> <p>16 exactly about sexting?</p> <p>17 Q. If you had a student who wanted to write about some</p> <p>18 facet of sexting in young adults, but just wanted to</p> <p>19 explore the topic broadly, would you point them to</p> <p>20 any specific studies?</p> <p>21 A. Explore the topic broadly. Yes, I would point them</p> <p>22 to lots of studies. I would tell them to look at my</p> <p>23 reference list on my latest paper. That would be</p> <p>24 more inclusive, and then to do a literature search</p> <p>25 that would include everything that was published in</p>	<p style="text-align: right;">Page 84</p> <p>1 be a year, six months before the study concludes,</p> <p>2 two years sometimes before the study concludes. And</p> <p>3 then you gather data on that study. So right now,</p> <p>4 I'm in the data gathering part, so there are a lot</p> <p>5 of articles that I haven't been able to look at that</p> <p>6 have been published in probably the last eight</p> <p>7 months. So anything from the middle of 2012 'til</p> <p>8 now.</p> <p>9 Q. So articles since the middle 2012 on sexting in</p> <p>10 young adults, if they do not concern the</p> <p>11 psychological facet, you have not been following</p> <p>12 those?</p> <p>13 A. What I've actually been following since the middle</p> <p>14 of 2012 is things -- well, following. Again, it's</p> <p>15 kind of emerging so there's nothing really to</p> <p>16 follow. But the articles that I've been looking at</p> <p>17 most recently have to do with intimate partner</p> <p>18 violence and sexual coercion. And following is</p> <p>19 probably not the correct term. The articles that I</p> <p>20 am looking at in the construction of my ethics board</p> <p>21 review are articles related to sexual coercion. And</p> <p>22 I don't think any of them were published in 2012 or</p> <p>23 2013. So until I start writing up one of my</p> <p>24 studies, I probably won't get deep into the</p> <p>25 literature about anything on young adults and</p>
<p style="text-align: right;">Page 83</p> <p>1 2012 and 2013. Because those would be the things</p> <p>2 that would be -- with the way that publications come</p> <p>3 out, those references, the newer references would be</p> <p>4 left out.</p> <p>5 Q. Okay. So it would be the reference list on both</p> <p>6 your 2012 and 2013 articles?</p> <p>7 A. I would tell them to look at those reference lists,</p> <p>8 but as well to look at what else has been published</p> <p>9 in 2012 and 2013. Something -- my article that was</p> <p>10 published in 2013 was submitted much earlier. So</p> <p>11 you're missing everything for, you know, six to</p> <p>12 eight months, at least, from your reference list.</p> <p>13 So they would also have to conduct a more recent</p> <p>14 literature review.</p> <p>15 Q. Certainly. Is there any more recent article that</p> <p>16 you would recommend to that person?</p> <p>17 A. Apparently, the Bauermeister article is --</p> <p>18 Bauermeister, I think that's the name of it; the one</p> <p>19 that Zimmerman is a co-author. I only saw it</p> <p>20 briefly. And I have not been looking -- I'm past</p> <p>21 the point in my study of doing the literature review</p> <p>22 for the initial review. And then I haven't yet done</p> <p>23 the actually literature review.</p> <p>24 So the stage that my research is in now, you</p> <p>25 submit your initial proposal to the IRB, which could</p>	<p style="text-align: right;">Page 85</p> <p>1 sexting from the last six months.</p> <p>2 Q. Okay. So your literature review from the last six</p> <p>3 months has been focused on sexual coercion and</p> <p>4 intimate partner violence?</p> <p>5 A. Not intimate partner violence specifically. But</p> <p>6 my -- the types of things that are presently related</p> <p>7 to the work that I'm proposing now are sexual</p> <p>8 coercion works. And the recent -- you can see my</p> <p>9 recent work under Presentations, Disciplinary</p> <p>10 Research. So I have two presentations and I also am</p> <p>11 supervising a student who is participating in the</p> <p>12 Midwestern Psychological Association Conference</p> <p>13 under the Psi Chi competition, who is looking at</p> <p>14 unwanted but consensual sex and correlates with</p> <p>15 physical abuse. So these are the types of things</p> <p>16 that for the last six months I've been more</p> <p>17 concentrated on, because these are my active</p> <p>18 studies.</p> <p>19 Q. That makes sense. So in the last six months, you</p> <p>20 haven't been focused on conducting the literature</p> <p>21 review for young adults and sexting?</p> <p>22 A. Yes, that's correct.</p> <p>23 MR. SWINTON: I said at the beginning that</p> <p>24 we would take breaks every 90 minutes. I think</p> <p>25 we're a little bit over time. It seems like this</p>

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<p style="text-align: right;">Page 86</p> <p>1 might be a good time to take a break.</p> <p>2 MS. BAUMGARDNER: That sounds good to me.</p> <p>3 THE WITNESS: Okay.</p> <p>4 (Whereupon, a recess was taken, after</p> <p>5 which the proceedings continued as</p> <p>6 follows:)</p> <p>7 BY MR. SWINTON:</p> <p>8 Q. Dr. Drouin, did you speak with anybody during the</p> <p>9 break?</p> <p>10 A. Yes. I spoke with Lorraine.</p> <p>11 Q. And did you discuss the case?</p> <p>12 A. The case?</p> <p>13 Q. The case Free Speech Coalition v. Holder.</p> <p>14 A. We did not discuss anything about the case, no.</p> <p>15 Q. Did you discuss anything about this deposition?</p> <p>16 A. I mentioned that I have to not ask you questions,</p> <p>17 that I have to overcome the urge to ask you</p> <p>18 questions, yes.</p> <p>19 Q. And was that the only thing you discussed?</p> <p>20 A. And I said how was I doing, and she said I'm doing</p> <p>21 great.</p> <p>22 Q. Okay. Did you discuss anything else?</p> <p>23 A. No.</p> <p>24 Q. Okay.</p> <p>25 A. Oh, yes. We discussed that she's a lawyer and she</p>	<p style="text-align: right;">Page 88</p> <p>1 A. I have not.</p> <p>2 Q. When did you first hear about the lawsuit?</p> <p>3 A. I think it was February or -- I think it was</p> <p>4 February, a few months ago.</p> <p>5 Q. So you first heard about the case in February 2013?</p> <p>6 A. Yes.</p> <p>7 Q. How did you hear about it?</p> <p>8 A. I got a call from Bill Livingston, one of Lorraine</p> <p>9 Baumgardner's colleagues who said that they were</p> <p>10 possibly interested in me being an expert witness</p> <p>11 for this case. And he explained pretty much what</p> <p>12 I've explained to you, he explained then about the</p> <p>13 case.</p> <p>14 Q. Do you know why Mr. Livingston contacted you?</p> <p>15 A. Why he contacted me? Can you can clarify?</p> <p>16 Q. Yeah. Let me rephrase the question. Do you know</p> <p>17 why Mr. Livingston wanted you to be an expert in</p> <p>18 this case?</p> <p>19 A. Because he, I think, recognized me as an expert in</p> <p>20 young adult sexting.</p> <p>21 Q. Did he recognize you as an expert in young adult</p> <p>22 sexting broadly defined?</p> <p>23 MS. BAUMGARDNER: Objection.</p> <p>24 A. I don't know what he thought.</p> <p>25 Q. Okay. What did the -- what do you know about the</p>
<p style="text-align: right;">Page 87</p> <p>1 often finds it an occupational hazard as well with</p> <p>2 her children that she will talk like a lawyer to her</p> <p>3 children. And I think that encapsulates all of our</p> <p>4 conversation.</p> <p>5 Q. Okay. Thank you. I wanted to ask you a few</p> <p>6 questions about the present lawsuit, Free Speech</p> <p>7 Coalition v. Holder.</p> <p>8 A. Okay.</p> <p>9 Q. Are you familiar with this lawsuit?</p> <p>10 A. Only a little bit.</p> <p>11 Q. What do you know about it?</p> <p>12 A. I know that Lorraine is representing 13, I believe,</p> <p>13 plaintiffs who are hoping or -- let me think of the</p> <p>14 correct word -- who -- I don't know the legal term.</p> <p>15 But who are concerned with one of the parts of the</p> <p>16 Constitution, I don't know the number, that relates</p> <p>17 to sending of sexually-explicit material. And I</p> <p>18 think the verbiage I'm using is not the correct</p> <p>19 verbiage either. And so it's constitutional law.</p> <p>20 And to be honest, that's about the extent that</p> <p>21 I know. I know a little bit about who some of the</p> <p>22 people are that she's representing. And all the</p> <p>23 rest that I know is that I'm supposed to be</p> <p>24 commenting on my research.</p> <p>25 Q. Have you met any of the people who are plaintiffs?</p>	<p style="text-align: right;">Page 89</p> <p>1 plaintiffs' position? What do you know about the</p> <p>2 plaintiffs' arguments in this case?</p> <p>3 A. I think that what they're saying is if this is</p> <p>4 broadly applied, it could affect a large number of</p> <p>5 people who are also transmitting this type of</p> <p>6 sexually-explicit material.</p> <p>7 Q. And when you say "this," if this is broadly applied,</p> <p>8 what --</p> <p>9 A. This part of the Constitution, this law.</p> <p>10 Q. Okay. What did the plaintiffs ask you to do for</p> <p>11 this case?</p> <p>12 A. The plaintiffs?</p> <p>13 Q. What did Mr. Livingston ask you to do for this case?</p> <p>14 A. Okay. He just asked me to write -- first write a</p> <p>15 statement that just talked about my research and</p> <p>16 what I found. And to then try to extrapolate from</p> <p>17 my -- what my findings were to what might be</p> <p>18 prevalent in a young adult sample.</p> <p>19 Q. And did he ask you to describe your research in</p> <p>20 young adults and sexting?</p> <p>21 A. I don't think he asked me -- I don't think the word</p> <p>22 was describe. I'm not sure what the exact term was,</p> <p>23 but yes, the young adult and sexting research --</p> <p>24 there are two articles specifically that he asked me</p> <p>25 to include descriptions of, what did I do, what did</p>

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<p style="text-align: right;">Page 90</p> <p>1 I find.</p> <p>2 Q. Did he ask you to include discussion of any other</p> <p>3 articles you've published?</p> <p>4 A. No, he didn't.</p> <p>5 Q. So they asked you to summarize the article you</p> <p>6 published in 2012 and the article you published in</p> <p>7 2013?</p> <p>8 A. Yes. I believe that's what he asked me to do.</p> <p>9 Again, I don't think summarize is the word, but I</p> <p>10 can't remember the exact term he used.</p> <p>11 Q. Okay. Did he ask you to reach any specific</p> <p>12 conclusion?</p> <p>13 MS. BAUMGARDNER: Objection. Again, I'll</p> <p>14 instruct her not to answer. I think that's work</p> <p>15 product.</p> <p>16 Q. Were you asked to make any assumptions for purposes</p> <p>17 of your report?</p> <p>18 A. Assumptions, no. Can you just -- assumptions, no.</p> <p>19 But if you'd like to further describe what you mean</p> <p>20 by assumptions.</p> <p>21 Q. Were you asked to assume any facts to be true?</p> <p>22 A. No.</p> <p>23 Q. Were you asked to assume -- well, strike that.</p> <p>24 Did you write all of your expert report</p> <p>25 yourself?</p>	<p style="text-align: right;">Page 92</p> <p>1 you may answer Mr. Swinton's question.</p> <p>2 A. And that's what I had assumed you meant about anyone</p> <p>3 else. No.</p> <p>4 Q. How long did it take you to write your expert</p> <p>5 report?</p> <p>6 A. Maybe two hours.</p> <p>7 Q. Two hours total?</p> <p>8 A. Yeah.</p> <p>9 Q. What did you do to write the report? What -- let me</p> <p>10 ask a little bit more specifically. What articles</p> <p>11 did you consider when you wrote your report?</p> <p>12 A. I considered my two articles and other articles that</p> <p>13 were related to young adult sexting that I had</p> <p>14 previously referenced in my research and an</p> <p>15 additional one on Hispanic women.</p> <p>16 Q. Okay. So you looked at five articles total?</p> <p>17 A. Yes, I believe five articles.</p> <p>18 (Whereupon, Deposition Exhibit No. DX-2,</p> <p>19 Report of Michelle A. Drouin, Ph.D., was</p> <p>20 marked for identification.)</p> <p>21 Q. Okay. I'm handing you a copy of an exhibit marked</p> <p>22 DX-2. At the top, it's labeled "Report of Michelle</p> <p>23 A. Drouin, Ph.D."</p> <p>24 A. Yes.</p> <p>25 Q. And it's about six pages long. Have you seen this</p>
<p style="text-align: right;">Page 91</p> <p>1 A. Yes.</p> <p>2 Q. How did you write it?</p> <p>3 MS. BAUMGARDNER: Objection.</p> <p>4 Q. Okay. I'm sorry. Let me rephrase that question.</p> <p>5 Did you share a draft with anybody?</p> <p>6 A. No.</p> <p>7 MS. BAUMGARDNER: Again, objection. I'm</p> <p>8 going to instruct her not to answer on the grounds</p> <p>9 of work product any questions about drafts.</p> <p>10 THE WITNESS: I'm sorry. I --</p> <p>11 MS. BAUMGARDNER: So I'm going to instruct</p> <p>12 you not to answer that question.</p> <p>13 THE WITNESS: Okay.</p> <p>14 Q. Let me ask again, did you -- you did write all of</p> <p>15 your expert report yourself. Correct?</p> <p>16 A. I did, yes.</p> <p>17 Q. Okay. Nobody else wrote any sections for you?</p> <p>18 A. No.</p> <p>19 Q. Okay. Did you receive any feedback on your report?</p> <p>20 MS. BAUMGARDNER: Again, objection. In terms</p> <p>21 of any discussion between plaintiffs' counsel and</p> <p>22 the expert, that would be protected by work</p> <p>23 product. So I'll instruct her not to answer in</p> <p>24 terms of our discussion.</p> <p>25 But if you got feedback from anyone else,</p>	<p style="text-align: right;">Page 93</p> <p>1 document before?</p> <p>2 A. I have, yes.</p> <p>3 Q. And this is the expert report you prepared for this</p> <p>4 case?</p> <p>5 A. Yes.</p> <p>6 Q. And you wrote this yourself. Correct?</p> <p>7 A. Yes.</p> <p>8 Q. Now, just to clarify, is your name spelled correctly</p> <p>9 at the top?</p> <p>10 A. Oh, no. It isn't.</p> <p>11 Q. Okay. But this is -- you are the Michelle A. Drouin</p> <p>12 referenced at the top of the --</p> <p>13 A. I am, yes.</p> <p>14 Q. Now, you said you relied on five articles in</p> <p>15 preparing the report?</p> <p>16 A. Articles as in research articles, is that what</p> <p>17 you're referring to?</p> <p>18 Q. Articles broadly. You said you relied on five?</p> <p>19 A. Well, then it would be more than five.</p> <p>20 Q. How many was it?</p> <p>21 A. Well, let's see. Seven. And the Howden and Meyer</p> <p>22 from the census data is not included in the</p> <p>23 reference list.</p> <p>24 Q. So the total body of work you considered were the</p> <p>25 six articles listed as references and then also the</p>

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<p style="text-align: right;">Page 94</p> <p>1 Howden and Meyer article?</p> <p>2 A. Yes.</p> <p>3 Q. Did you find these articles independently, without</p> <p>4 any assistance from anybody else?</p> <p>5 A. Yes.</p> <p>6 Q. Did anybody tell you to look at specific articles?</p> <p>7 A. No, they did not.</p> <p>8 Q. Were you paid for preparing this report?</p> <p>9 A. Yes, I was.</p> <p>10 Q. I think it says on page 2, you received \$1,500 as</p> <p>11 compensation?</p> <p>12 A. I did.</p> <p>13 Q. And that was for the two hours spent preparing this</p> <p>14 report?</p> <p>15 A. Yes.</p> <p>16 Q. Have you been paid in connection with any other work</p> <p>17 on this case?</p> <p>18 A. None yet.</p> <p>19 Q. Not yet. Outside of preparing for this deposition</p> <p>20 and preparing the expert report, have you done any</p> <p>21 other work on this case?</p> <p>22 A. I -- just reading -- reading articles and reading</p> <p>23 through the statement by Philip Stark. Just</p> <p>24 reading.</p> <p>25 Q. Have you read articles that aren't listed or</p>	<p style="text-align: right;">Page 96</p> <p>1 read anything else in connection with this case</p> <p>2 that's not listed in your expert report?</p> <p>3 A. That's connected to this case, no.</p> <p>4 Q. Okay. What conclusions did you draw in your expert</p> <p>5 report?</p> <p>6 MS. BAUMGARDNER: I'm going to object.</p> <p>7 But you can go ahead and answer the</p> <p>8 question.</p> <p>9 A. I was not asked to draw a conclusion in the way that</p> <p>10 I'm interpreting it. Can I -- I wasn't asked to</p> <p>11 draw a conclusion. I was asked to say what I did in</p> <p>12 my studies, say what I found. And then extrapolate</p> <p>13 from that data or my knowledge of the field to U.S.</p> <p>14 census data, using U.S. census data to come up with</p> <p>15 an estimation of how frequently young adult sexting</p> <p>16 could be occurring.</p> <p>17 Q. Okay.</p> <p>18 A. I wasn't asked though to make any conclusions about</p> <p>19 this research.</p> <p>20 Q. So you were asked to give an estimate?</p> <p>21 A. Yes.</p> <p>22 Q. Did you define the term "young adults"? How did you</p> <p>23 define the term "young adults" in your expert</p> <p>24 report?</p> <p>25 A. Again, young adults is -- could be defined in</p>
<p style="text-align: right;">Page 95</p> <p>1 referenced in your expert report in connection with</p> <p>2 this case?</p> <p>3 A. I did. I reexamined Weisskirch and Delevi.</p> <p>4 Q. Okay.</p> <p>5 A. Weisskirch and Delevi was one of the first articles</p> <p>6 that looked at sexting among young adults from a</p> <p>7 psychological perspective. And unfortunately, they</p> <p>8 listed only the means for frequency data and no</p> <p>9 prevalence data for young adult sexting. So because</p> <p>10 I was being asked to write about my reports and then</p> <p>11 extrapolate to a young adult sample, I didn't find</p> <p>12 anything useful in that article.</p> <p>13 Q. Did you look at that article before you wrote this</p> <p>14 expert report?</p> <p>15 A. Oh, I've read that article a number of times, yes,</p> <p>16 before I wrote this report.</p> <p>17 Q. Okay. So you considered that article when you were</p> <p>18 preparing the report, but decided not to use it?</p> <p>19 A. Yes. There was nothing useful.</p> <p>20 Q. Okay.</p> <p>21 A. From my perspective.</p> <p>22 Q. Aside from the Stark declaration which -- you've</p> <p>23 read the Stark declaration. Correct?</p> <p>24 A. I have.</p> <p>25 Q. Okay. Other than the Stark declaration, have you</p>	<p style="text-align: right;">Page 97</p> <p>1 different ways. So young adults, I took it as a</p> <p>2 researcher-specific term. Anything 18 to 30, I</p> <p>3 guess, that people had considered a young adult in</p> <p>4 their own research, I included.</p> <p>5 MS. BAUMGARDNER: And for the record, the</p> <p>6 defendant's Exhibit 2 is incomplete in that it</p> <p>7 doesn't includes Exhibits A and B as attachments.</p> <p>8 MR. SWINTON: Okay. We can mark those as</p> <p>9 separate exhibits, and we'll get to them.</p> <p>10 MS. BAUMGARDNER: Okay.</p> <p>11 Q. Can we look at page 5 of the expert report.</p> <p>12 A. Yes.</p> <p>13 Q. And you say that approximately one-third of young</p> <p>14 adults (aged 18 to 24). So for purposes of this</p> <p>15 estimate and this expert report, you were construing</p> <p>16 the words "young adult" to mean people ages 18 to</p> <p>17 24?</p> <p>18 A. Yes. For the purposes of this report.</p> <p>19 Q. Did you come up with that age range on your own?</p> <p>20 A. I did not. I looked at the census data and that was</p> <p>21 the way they had grouped it, 18 to 24, for the</p> <p>22 census data. And because the next category spread</p> <p>23 into numbers that would not generally be included as</p> <p>24 young adult in these other samples, I had to take</p> <p>25 the 18 to 24 age group, in order for it to be most</p>

<p style="text-align: right;">Page 98</p> <p>1 applicable to the census data.</p> <p>2 Q. Okay. You said earlier that sometimes young adult</p> <p>3 can mean something different than 18 to 24?</p> <p>4 A. I mean some people -- it depends on the perspective.</p> <p>5 Some people would argue that adolescence extends</p> <p>6 into early 20s, especially in today's society where</p> <p>7 many people are still -- are living at home or</p> <p>8 returning to live home. So it's a broad</p> <p>9 interpretation. But based on -- I had to use -- it</p> <p>10 was recommended that I extrapolate to U.S. census</p> <p>11 data, so I used their definition of young adulthood.</p> <p>12 Q. And it was recommended by Mr. Livingston that you</p> <p>13 extrapolate to U.S. census data?</p> <p>14 A. It was.</p> <p>15 Q. Okay. So if we stay on that same paragraph, you say</p> <p>16 "my opinion is that approximately one-third of young</p> <p>17 adults (aged 18 to 24) have sent text messages</p> <p>18 involving sexually-explicit visual depictions."</p> <p>19 Correct?</p> <p>20 A. Yes.</p> <p>21 Q. And then two sentences later, you say, "I would</p> <p>22 estimate that approximately 10.2 million young</p> <p>23 adults have sent text messages involving</p> <p>24 sexually-explicit visual depictions." Correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 100</p> <p>1 I were fully clothed. For some reason, I feel like</p> <p>2 the -- just depicting something that is sexual in</p> <p>3 nature.</p> <p>4 Q. What does "sexual in nature" mean?</p> <p>5 A. It could be sex. It could be masturbation. It</p> <p>6 could be a sexually-suggestive pose while you're</p> <p>7 naked. It could be a sexually-suggestive pose</p> <p>8 apparently if you are still wearing underwear. That</p> <p>9 would have been my interpretation from what was</p> <p>10 explained to me.</p> <p>11 Q. And by "sex," you mean sexual intercourse?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And is that limited to sexual intercourse</p> <p>14 involving two people's genitals?</p> <p>15 A. No.</p> <p>16 Q. Would it include oral sex?</p> <p>17 A. Yes, I believe so.</p> <p>18 Q. Okay. So if -- you said that it had to be sexually</p> <p>19 suggestive. What does "sexually suggestive" mean?</p> <p>20 A. Suggesting sex.</p> <p>21 Q. Can a person be nude and not be sexually suggestive?</p> <p>22 A. The image or the person?</p> <p>23 Q. Can an image of a naked person not be sexually</p> <p>24 suggestive?</p> <p>25 A. Could it not be sexually explicit, I mean, because I</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. What do you mean by "sexually explicit"?</p> <p>2 A. Well, this was a question that I had asked Lorraine</p> <p>3 in a conversation, what does it mean? And sexually</p> <p>4 explicit, as I understood it, meant any visual</p> <p>5 depiction. It didn't even have to be someone</p> <p>6 completely nude, but if it were sexually explicit in</p> <p>7 nature. So as an example, a man standing in his</p> <p>8 underwear, if you could see the outline of his</p> <p>9 genitals, could still be considered sexually</p> <p>10 explicit.</p> <p>11 Q. Were you given any other examples of what would be</p> <p>12 sexually explicit?</p> <p>13 A. I may have been. I think I may have asked, so</p> <p>14 masturbation is sexually explicit? And entirely</p> <p>15 nude is sexually explicit? I think I may have asked</p> <p>16 those things. But the main part I remember about</p> <p>17 the explanation I was given was that it didn't have</p> <p>18 to be entirely nude to qualify.</p> <p>19 Q. What did it have to be to qualify as sexually</p> <p>20 explicit?</p> <p>21 A. It had to be a visual depiction that was showing</p> <p>22 something sexual. I -- this sounds quite broad, but</p> <p>23 if someone were fully clothed under the description</p> <p>24 that I was given, I don't think it would qualify, if</p> <p>25 I were turned around and just showing my backside if</p>	<p style="text-align: right;">Page 101</p> <p>1 guess sexually suggestive would apply to non-nude,</p> <p>2 sexually explicit might apply to nudes. Explicit</p> <p>3 meaning it's there. So even if the person wasn't</p> <p>4 meaning to be sexual, if someone derives sexual</p> <p>5 pleasure from that image, then it could be sexually</p> <p>6 explicit.</p> <p>7 Q. And if nobody derives sexual pleasure from the</p> <p>8 image, then it's not sexually explicit?</p> <p>9 A. No.</p> <p>10 Q. Okay. So there are instances in which a person can</p> <p>11 be completely nude and it's not sexually explicit?</p> <p>12 A. No.</p> <p>13 Q. So every nude depiction of a person is sexually</p> <p>14 explicit?</p> <p>15 A. From the perspective of the law or from the</p> <p>16 perspective of . . .</p> <p>17 Q. From the perspective of your estimate in your expert</p> <p>18 report.</p> <p>19 A. Anything that was involving a nude image was</p> <p>20 included in sexually-explicit visual depictions.</p> <p>21 Q. Okay. So when you say "sexually-explicit visual</p> <p>22 depictions" in your expert report, you mean entirely</p> <p>23 nude, masturbation, sexual intercourse, or clothed</p> <p>24 but sexually suggestive?</p> <p>25 A. Yes. And I'm not sure that that encapsulates it</p>

<p style="text-align: right;">Page 102</p> <p>1 all, but those things, yes.</p> <p>2 Q. What else would be included?</p> <p>3 A. I'm not sure. But it's -- this research hasn't been</p> <p>4 delineated that often -- oh, I don't have it.</p> <p>5 Partially clothed as well; I don't think that you</p> <p>6 mentioned that, partially clothed. So that could be</p> <p>7 included as well.</p> <p>8 Q. And what does "partially clothed" mean?</p> <p>9 A. Perhaps a girl without her shirt on.</p> <p>10 Q. Okay. So you can see a woman's breasts would be</p> <p>11 partially clothed?</p> <p>12 A. Yes.</p> <p>13 Q. And what about a man without his shirt on? Is he</p> <p>14 partially clothed?</p> <p>15 A. I'm not sure. I don't know if those were things</p> <p>16 that people would have included in their estimation.</p> <p>17 So it's very difficult for me to say it. I would</p> <p>18 say under the current definitions of sexually</p> <p>19 explicit, I would guess a man without his shirt</p> <p>20 would not -- consider that a sexually explicit</p> <p>21 image.</p> <p>22 Q. Okay. So when you were using the term</p> <p>23 "sexually-explicit visual depictions," you weren't</p> <p>24 thinking of any sort of legal standard for sexually</p> <p>25 explicit. Correct?</p>	<p style="text-align: right;">Page 104</p> <p>1 sexually explicit here. So right now, the list as I</p> <p>2 have it is entirely nude, masturbation, sexual</p> <p>3 intercourse, partially clothed, and sexually</p> <p>4 suggestive -- clothed but sexually suggestive.</p> <p>5 A. Yeah. And sexual intercourse includes any kind of</p> <p>6 oral sex. And you included masturbation in that</p> <p>7 list as well?</p> <p>8 Q. Correct.</p> <p>9 A. Yes.</p> <p>10 Q. Is there anything I've left out?</p> <p>11 A. I don't believe so.</p> <p>12 Q. Okay. If a person is -- to be sexually explicit in</p> <p>13 the way that you're using the term in your expert</p> <p>14 report, if a person is partially clothed -- for</p> <p>15 example, a woman's breasts are showing -- does that</p> <p>16 have to be sexually suggestive in order to be</p> <p>17 sexually explicit?</p> <p>18 A. From my perspective as a researcher, I'm asking</p> <p>19 people to say whether or not they've sent</p> <p>20 sexually-suggestive images of that sort. So they</p> <p>21 would have to categorize it as sexually explicit or</p> <p>22 suggestive or whatever wording that I'm using. It</p> <p>23 usually has "sexually" part of it. With then, the</p> <p>24 example of have I shown my breasts to -- have I sent</p> <p>25 a picture of me topless or -- so it's a self-defined</p>
<p style="text-align: right;">Page 103</p> <p>1 A. Actually, I was. I would -- I didn't think, I</p> <p>2 guess, before I -- let me rephrase. When I conduct</p> <p>3 my research, I delineate now the types of images.</p> <p>4 So "sexually explicit" in my current work will</p> <p>5 probably not be the term that I use. Because I</p> <p>6 think it needs to be delineated more than that. So</p> <p>7 this is a little bit broader. Because now I'm</p> <p>8 focusing on photos or videos and I'm delineating</p> <p>9 different types of sexual content that has been</p> <p>10 termed sexual content by the person who is reporting</p> <p>11 it and has sent it. So that's not my own</p> <p>12 estimation. It's the person who participates, their</p> <p>13 estimation.</p> <p>14 Q. Okay. So when you say "sexually-explicit visual</p> <p>15 depictions" in your expert report --</p> <p>16 A. That is a little bit broader than my current --</p> <p>17 the -- currently the way I am exploring sexting.</p> <p>18 Q. So since the time you wrote your expert report,</p> <p>19 you've narrowed how you're defining sexually</p> <p>20 explicit for the purposes of sexting. Correct?</p> <p>21 A. I don't -- no. I haven't narrowed it. I don't use</p> <p>22 the term "sexually explicit" in my present research.</p> <p>23 I haven't narrowed anything.</p> <p>24 Q. Okay. So present research aside, I just want to</p> <p>25 make sure I understand what you mean when you say</p>	<p style="text-align: right;">Page 105</p> <p>1 term.</p> <p>2 Q. Okay. So when you say sexually-explicit visual</p> <p>3 depictions, when you estimate that one-third of</p> <p>4 young adults have sent text messages involving</p> <p>5 sexually-explicit visual depictions, that estimation</p> <p>6 is based on how the senders or receivers of those</p> <p>7 images interpreted the depictions?</p> <p>8 A. Yes. And my work that's published is focused on the</p> <p>9 senders. But I have work as well that looks at the</p> <p>10 receivers, and some of the other work looks at the</p> <p>11 receivers. So their interpretation of the images,</p> <p>12 yes.</p> <p>13 Q. Okay. So just so I'm clear on this, in your expert</p> <p>14 report you say that approximately one-third of young</p> <p>15 adults have sent text messages involving</p> <p>16 sexually-explicit visual depictions. The phrase</p> <p>17 "sexually explicit," as used in the report, depends</p> <p>18 on how the sender -- whether the sender believed the</p> <p>19 depiction to be sexually explicit?</p> <p>20 A. Yes. Because these are all asking senders whether</p> <p>21 or not they determine it. It's not some outside</p> <p>22 source who has determined the content to be sexually</p> <p>23 explicit. Everything, all of the work that I cite,</p> <p>24 has asked senders to qualify it as such.</p> <p>25 Q. Okay. And I want to make sure I didn't miss</p>

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<p style="text-align: right;">Page 106</p> <p>1 anything in your report. Did you make any</p> <p>2 estimations about the number of young adults who</p> <p>3 have received --</p> <p>4 A. I didn't.</p> <p>5 Q. -- sexually-explicit images?</p> <p>6 A. No.</p> <p>7 Q. So you focused just on the senders of</p> <p>8 sexually-explicit images?</p> <p>9 A. I did.</p> <p>10 Q. Okay. Did you conduct any studies specifically for</p> <p>11 the purposes of preparing this expert report?</p> <p>12 A. No.</p> <p>13 Q. So your estimate was based solely on studies that</p> <p>14 had already been completed?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And those are the six studies that are listed</p> <p>17 in your references on the last page of your report?</p> <p>18 A. Yes.</p> <p>19 Q. Have you reevaluated your estimate since the time</p> <p>20 you wrote your report?</p> <p>21 A. No. Reevaluated, have I thought about it or have I</p> <p>22 changed my mind about it?</p> <p>23 Q. Have you reached -- well, you say one-third of young</p> <p>24 adults have sent text messages involving</p> <p>25 sexually-explicit visual depictions. Have you</p>	<p style="text-align: right;">Page 108</p> <p>1 A. And after I read Philip Stark's -- what are you</p> <p>2 calling it, the Stark report? No. The Stark . . .</p> <p>3 Q. I think I referred earlier to the Stark declaration.</p> <p>4 A. Yeah. The Stark declaration. When I read</p> <p>5 Dr. Stark's declaration, I considered my number and</p> <p>6 I believe that it is true.</p> <p>7 Q. Okay. What did you do when you -- what did you look</p> <p>8 at after you read the Stark declaration?</p> <p>9 A. I really looked at his reference list. Many of the</p> <p>10 things that were included on his reference list</p> <p>11 which were -- not studies that he referenced on his</p> <p>12 own oftentimes. It was studies that myself or the</p> <p>13 other expert witness had referenced. Many of them</p> <p>14 are applicable to not the young adult population.</p> <p>15 So I looked at the methods that he looked at and</p> <p>16 rechecked some of the methods of my studies. And</p> <p>17 mine were accurate, so . . .</p> <p>18 Q. So you looked again at the studies you referenced,</p> <p>19 as well as the studies that were referenced in the</p> <p>20 Stark declaration?</p> <p>21 A. I didn't look at all the studies referenced in the</p> <p>22 Stark declaration.</p> <p>23 Q. Okay.</p> <p>24 A. Anything that was not relevant to my work, I didn't</p> <p>25 look at.</p>
<p style="text-align: right;">Page 107</p> <p>1 reached a different percentage --</p> <p>2 A. No.</p> <p>3 Q. -- since you wrote this report?</p> <p>4 A. No.</p> <p>5 Q. And you estimate that 10.2 million young adults have</p> <p>6 sent text messages involving sexually-explicit</p> <p>7 visual depictions. Have you reached a different</p> <p>8 estimate of the number --</p> <p>9 A. No.</p> <p>10 Q. -- since you wrote this report?</p> <p>11 Okay. Have you reconsidered your estimates in</p> <p>12 the expert report since the time that you wrote it?</p> <p>13 A. Can you tell me what you mean by "reconsider"?</p> <p>14 Q. Sure. Have you looked at the studies, either the</p> <p>15 ones that were referenced in your report or other</p> <p>16 studies on sexting in young adults and tried to come</p> <p>17 up with an estimate of the percentage of young</p> <p>18 adults in the country who have sent</p> <p>19 sexually-explicit visual images?</p> <p>20 A. I have considered the research, but I have not tried</p> <p>21 to come up with a new estimate because I haven't</p> <p>22 come up with any conflicting evidence.</p> <p>23 Q. Okay. Have you looked specifically for conflicting</p> <p>24 evidence since the time you wrote your expert</p> <p>25 report?</p>	<p style="text-align: right;">Page 109</p> <p>1 Q. Okay. Did you look at anything that wasn't either</p> <p>2 in your expert report or the Stark declaration?</p> <p>3 A. I looked again at Weisskirch and Delevi, just to</p> <p>4 make sure there was nothing there that had any kind</p> <p>5 of prevalence data and that was mentioned in neither</p> <p>6 report.</p> <p>7 Q. And that study that you just referred to, I think</p> <p>8 it's Weisskirch --</p> <p>9 A. Weisskirch --</p> <p>10 Q. -- and Delevi?</p> <p>11 A. -- Delevi.</p> <p>12 Q. You earlier decided not to rely on it because it</p> <p>13 just calculated a means and wasn't a prevalence</p> <p>14 determination. Is that correct?</p> <p>15 A. Yeah. Well, they didn't give prevalence data in the</p> <p>16 study.</p> <p>17 Q. Okay.</p> <p>18 A. I also -- I did do a search to see if there was</p> <p>19 anything about prevalence that had come out in --</p> <p>20 just doing a Google search. And I didn't see</p> <p>21 anything there either.</p> <p>22 Q. Okay. Did you search anywhere else --</p> <p>23 A. No.</p> <p>24 Q. -- other than Google?</p> <p>25 A. I went to search for a specific article after I read</p>

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<p style="text-align: right;">Page 110</p> <p>1 Philip Stark's declaration, but I don't remember</p> <p>2 what it was.</p> <p>3 Q. Do you remember why you were looking for that</p> <p>4 particular article?</p> <p>5 A. Because I was particularly interested in the things</p> <p>6 he said about the methodologies.</p> <p>7 Q. Okay. Was the article you were looking for about</p> <p>8 sexting?</p> <p>9 A. Yes.</p> <p>10 Q. But you were unable to find it?</p> <p>11 A. No. I think I found it. I can't remember which</p> <p>12 article it was, but . . .</p> <p>13 Q. Oh, okay. It was one of the articles that was</p> <p>14 referenced in the Stark declaration?</p> <p>15 A. Yes.</p> <p>16 Q. I see. And you were able to find it?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Three of the published studies, published</p> <p>19 articles, that you reference in your expert report</p> <p>20 were studies of students at universities. Correct?</p> <p>21 A. One, two, three. Yes.</p> <p>22 * * *</p> <p>23 * * *</p> <p>24 * * *</p> <p>25 * * *</p>	<p style="text-align: right;">Page 112</p> <p>1 the presence of certain attachment phenomena in</p> <p>2 college students' relationships. Is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Is that a fair characterization?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And as we discussed earlier, this is a</p> <p>7 snapshot of your broader research on sexting.</p> <p>8 Correct?</p> <p>9 A. Yes.</p> <p>10 Q. Can you describe to me what -- what was the purpose</p> <p>11 of the research? Not the article, what was the</p> <p>12 purpose of the research?</p> <p>13 A. The purpose of the research was to gain insight into</p> <p>14 the phenomenon of sexting. When I started</p> <p>15 conducting this study, it was really emerging. I</p> <p>16 actually struggled to find almost any references for</p> <p>17 this work. And what had been published was mainly</p> <p>18 just -- not in peer-reviewed journals.</p> <p>19 So the purpose of the original study was to</p> <p>20 examine what types of things are correlates, so</p> <p>21 relate to sexting, attachment, personality</p> <p>22 characteristics, other types of relationship</p> <p>23 characteristics. Personal characteristics like</p> <p>24 intimacy issues. And then as well, to look at</p> <p>25 texting and how text messaging is also related to</p>
<p style="text-align: right;">Page 111</p> <p>1 (Whereupon, Deposition Exhibit No. DX-3,</p> <p>2 Computers in Human Behavior, Texting,</p> <p>3 sexting, and attachment in college</p> <p>4 students' romantic relationships, was</p> <p>5 marked for identification.)</p> <p>6 Q. Okay. So I've handed you an exhibit marked DX-3.</p> <p>7 This is a seven-page article. The title page is</p> <p>8 Computers in Human Behavior. The second page is the</p> <p>9 title of the article, which is "Texting, sexting,</p> <p>10 and attachment in college students' romantic</p> <p>11 relationships." Author is Michelle Drouin and Carly</p> <p>12 Landgraff.</p> <p>13 A. That's correct.</p> <p>14 Q. Have you seen this document before?</p> <p>15 A. Yes.</p> <p>16 Q. And this is an article you were a co-author on.</p> <p>17 Correct?</p> <p>18 A. I was the primary author on, yes.</p> <p>19 Q. You were the primary author. And this article</p> <p>20 contains data from your research. Correct?</p> <p>21 A. Yes.</p> <p>22 Q. And for the record, this is -- you attached this</p> <p>23 article as Exhibit A to your expert report?</p> <p>24 A. Yes. I believe so, yes.</p> <p>25 Q. So the article is focused on sexting, texting, and</p>	<p style="text-align: right;">Page 113</p> <p>1 relationships. So there was -- there were two</p> <p>2 things, two angles.</p> <p>3 Q. So, for example, one thing you were able to tell</p> <p>4 from this study, and that you discuss in the</p> <p>5 article, is whether people who are -- I think you</p> <p>6 used the phrase "attachment" -- are more likely to</p> <p>7 text a person with whom they're in a relationship</p> <p>8 than a person -- or whether a person who is</p> <p>9 attachment-avoidant is more likely to send a text</p> <p>10 message to someone with whom they're in a</p> <p>11 relationship. Correct?</p> <p>12 A. Yes. But it's in the other direction. So a --</p> <p>13 Q. Less likely?</p> <p>14 A. Yes, they're less likely.</p> <p>15 Q. And maybe somebody with anxiety attachment might be</p> <p>16 more likely to send a text message to a person with</p> <p>17 whom --</p> <p>18 A. No. If you look at Table 3, I'll explain it you.</p> <p>19 Are you on Table 3?</p> <p>20 Q. I am. And just to clarify it, I wasn't trying to</p> <p>21 state what the findings were, but this was one of</p> <p>22 the things that you might be able to tell from the</p> <p>23 study, for example.</p> <p>24 A. Oh, yeah. You might be able to.</p> <p>25 Q. Okay. So it was kind of whether a person who had</p>

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<p style="text-align: right;">Page 114</p> <p>1 this particular characteristic might be more or less 2 likely to send a text message or more or less likely 3 to send a sexual image? 4 A. That's right. 5 Q. Okay. And Table 3 that you just referred to, helps 6 show some of the results? 7 A. Yes. 8 Q. Okay. How did you collect your data for this study? 9 A. I used a psychology department research pool. All 10 introductory psychology students are asked to 11 complete research or complete a separate research 12 assignment in conjunction with them learning about 13 psychology. It's a pretty standard practice. Many 14 universities use psychology department research 15 pools. So I identified the pool -- first, I wrote 16 the IRB proposal for the study, I identified the 17 pool, and then I gave this for anyone who signed up 18 online. 19 Q. And I'm sorry. IRB means what? 20 A. IRB is the Institutional Review Board. It's an 21 ethics board. 22 Q. And you have to get their approval before you can 23 move forward with conducting this study? 24 A. Yes. 25 Q. Okay. And in that approval process, you outline and</p>	<p style="text-align: right;">Page 116</p> <p>1 A. Yes. 2 Q. And it sounds like, if I understood you correctly, 3 they are required to participate in a study as part 4 of the psychology curriculum? 5 A. They can participate in a study or do an alternative 6 research assignment. 7 Q. Okay. And they receive credit for participating in 8 a study. Correct? 9 A. They get one research credit, yes. 10 Q. Okay. So what happens once somebody selects your 11 study as one they want to participate in? 12 A. Then they directed to an external survey website and 13 are told that -- they are given a consent form that 14 explains what the benefits and risks are of the 15 study. And they are -- they have explanations in a 16 general way about what they will be doing and how 17 long it will take and what their compensation will 18 be for the study. They are also given the contact 19 number for the principal investigator who they can 20 contact with questions at any time. 21 And then they have to agree to consent -- 22 sorry. They have to agree to participate within 23 this online consent form in order to move forward 24 with the survey. 25 Then on the survey, they -- after the end of</p>
<p style="text-align: right;">Page 115</p> <p>1 describe what you would do if you do get 2 authorization? 3 A. Yes. 4 Q. Okay. So of the pool of the students -- let me back 5 up. Was your pool limited -- or it says here that 6 your pool was limited to students from a 7 medium-sized university in the midwestern United 8 States. Correct? 9 A. It was, yes. 10 Q. So your were drawing from students at one 11 university? 12 A. Yes. 13 Q. And was that university Indiana-Purdue Fort Wayne? 14 A. Yes. 15 Q. Okay. And how did you select participants from that 16 pool? 17 A. They selected -- they elected to participate in my 18 research study. 19 Q. How did they find out about whether they could 20 participate? 21 A. All of the studies are listed in a system called 22 Sona Systems. So the study was listed in Sona 23 Systems. 24 Q. So there were multiple studies that they could 25 choose from to participate in?</p>	<p style="text-align: right;">Page 117</p> <p>1 the survey, they don't have to have completed the 2 whole survey, but after the end of the survey, they 3 get directed to another -- an external site that 4 would record their name for credit-granting 5 purposes, so that the methods are completely 6 anonymous. 7 Q. You mentioned a principal investigator. 8 A. Yes. 9 Q. Are you the principal investigator? 10 A. Yes. 11 Q. Okay. And they were given that person's contact 12 information that they could contact with questions? 13 A. Yes. 14 Q. Did anybody contact you? 15 A. No. 16 Q. Now, it's -- how long did it take a participant to 17 complete the survey? 18 A. The length of time I think I estimated was 30 -- it 19 was 30 to 45 minutes. 20 Q. And is that, those 35 to 40 minutes, are limited to 21 just answering the questions or is that the entire 22 process of certifying and then collecting your 23 course credit afterwards? 24 A. It would be the entire process. 25 Q. Entire process? So a student gets one semester</p>

<p style="text-align: right;">Page 118</p> <p>1 credit for less than an hour's worth of work.</p> <p>2 Correct?</p> <p>3 A. I don't know that you're saying semester's credit</p> <p>4 [sic]. They get one research credit within the</p> <p>5 context of an introductory psychology course.</p> <p>6 Research credit being one of the things they do as</p> <p>7 part of introductory psychology.</p> <p>8 Q. Okay.</p> <p>9 A. So in a typical semester, they might have to do five</p> <p>10 things related to research.</p> <p>11 Q. Okay.</p> <p>12 A. That would be a nice exchange for them, one credit</p> <p>13 for one hour.</p> <p>14 Q. Yeah. I thought it seemed very generous. So a</p> <p>15 research credit is not the same as a semester --</p> <p>16 A. Course credit, no.</p> <p>17 Q. -- credit?</p> <p>18 A. No.</p> <p>19 Q. Okay. Now, you didn't select everybody who wanted</p> <p>20 to participate in the study. Correct?</p> <p>21 A. I didn't select them for what?</p> <p>22 Q. Not everybody who wanted to participate in the</p> <p>23 study -- I'm sorry. Everybody who wanted to</p> <p>24 participate in the study was able to complete the</p> <p>25 questionnaire. Correct?</p>	<p style="text-align: right;">Page 120</p> <p>1 know of, not as a standard practice. There wouldn't</p> <p>2 be any kind of response rate for volunteer studies.</p> <p>3 Q. So you don't measure the number of people who</p> <p>4 accessed the survey but didn't answer all the</p> <p>5 questions?</p> <p>6 A. No. Because not answering all the questions, if you</p> <p>7 have a survey that has 600 questions and someone</p> <p>8 doesn't answer one, then that person would be in one</p> <p>9 category, and one person doesn't answer two</p> <p>10 questions. So you're talking about quite a complex</p> <p>11 calculation that really wouldn't add much to the</p> <p>12 study -- the number of people who would sign up for</p> <p>13 a study and then not complete any of the questions,</p> <p>14 because that would make it useless, is probably very</p> <p>15 low. And I don't usually see it included in</p> <p>16 research --</p> <p>17 Q. And you didn't include it --</p> <p>18 A. -- that I review.</p> <p>19 Q. -- in your studies?</p> <p>20 A. I did not.</p> <p>21 Q. Okay. Now, on the fourth page of your article under</p> <p>22 Method and Participants --</p> <p>23 A. Yes.</p> <p>24 Q. -- you say, "The sample consisted of 744 college</p> <p>25 students." And then you talk about the recruiting</p>
<p style="text-align: right;">Page 119</p> <p>1 A. They had the opportunity to complete the</p> <p>2 questionnaire, yes.</p> <p>3 Q. But not everybody completed the questionnaire?</p> <p>4 A. I would say that I don't remember how many people or</p> <p>5 if people did not complete the questionnaire. I</p> <p>6 would assume that not everyone answered all the</p> <p>7 questions on the questionnaire.</p> <p>8 Q. And is that -- the percentage of people who</p> <p>9 completed all the questions on the questionnaire,</p> <p>10 that's called a response rate?</p> <p>11 A. Response rate is not really usually termed like</p> <p>12 that.</p> <p>13 Q. How is it termed?</p> <p>14 A. Response rate is how many people do you ask who</p> <p>15 actually reply.</p> <p>16 Q. Okay. So was there a response rate with this study?</p> <p>17 A. No. The response rate -- it's not response rate --</p> <p>18 it wouldn't be a typical response rate as you're, I</p> <p>19 think, thinking of it.</p> <p>20 Q. There's no response rate because people volunteer to</p> <p>21 participate in the study?</p> <p>22 A. Yes.</p> <p>23 Q. Is there any similar rate that you measure for</p> <p>24 volunteer studies?</p> <p>25 A. Not -- not mine. I guess you could do -- not that I</p>	<p style="text-align: right;">Page 121</p> <p>1 method from the introductory psychology classes.</p> <p>2 You say, "From a larger sample, only those</p> <p>3 participants indicating that they had been in a</p> <p>4 committed relationship were included in this study."</p> <p>5 A. Yes.</p> <p>6 Q. So does this mean 878 people completed the survey?</p> <p>7 A. Yes. And by completion, it's a liberal term. If</p> <p>8 you don't fill out a couple of questions, your data</p> <p>9 can still be included.</p> <p>10 Q. Right.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Of those 878, 744 indicated they had been in</p> <p>13 a committed relationship. Correct?</p> <p>14 A. That's correct.</p> <p>15 Q. So that means there were -- my math here -- 134</p> <p>16 students who indicated they had not been in a</p> <p>17 committed relationship?</p> <p>18 A. That's correct.</p> <p>19 Q. What happened to those 134 students, for purposes of</p> <p>20 this study?</p> <p>21 A. I took them out of the analyses.</p> <p>22 Q. And was that for the study altogether or just for</p> <p>23 purposes of this article?</p> <p>24 A. For the purposes of this article.</p> <p>25 Q. Okay. So you used them in other ways, but not in</p>

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<p style="text-align: right;">Page 122</p> <p>1 this -- connected to your research, but not in this</p> <p>2 article?</p> <p>3 A. I may use them in other ways. These -- I still have</p> <p>4 the data set.</p> <p>5 Q. Okay. So they were still helpful -- or they may</p> <p>6 have still been helpful to you to have gathered that</p> <p>7 data for some reason --</p> <p>8 A. Yes.</p> <p>9 Q. -- not related to this article?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So on this same page and then continuing on</p> <p>12 to the next page, under Results and then the</p> <p>13 subheading 3.1, Prevalence of texting and sexting in</p> <p>14 romantic relationship. You say, I think, 54 percent</p> <p>15 of the survey's participants had sent</p> <p>16 sexually-explicit pictures or videos to their</p> <p>17 relationship partners more than never?</p> <p>18 A. Yes.</p> <p>19 Q. Now, that means the 54 percent were of the people</p> <p>20 who were in committed relationships?</p> <p>21 A. Yes.</p> <p>22 Q. And it was the 54 percent of people who were in</p> <p>23 committed relationships in the introductory</p> <p>24 psychology classes during the two consecutive</p> <p>25 semesters during which you were conducting the</p>	<p style="text-align: right;">Page 124</p> <p>1 Q. Okay. So their data isn't considered at all?</p> <p>2 A. You cannot use it at all.</p> <p>3 Q. Okay.</p> <p>4 A. You cannot even -- yes.</p> <p>5 Q. Okay. How did you define committed relationship for</p> <p>6 purposes of the survey?</p> <p>7 A. I asked them to -- I said -- let's see. Okay. It's</p> <p>8 on 2.3.2. "This would be a person with whom you</p> <p>9 shared an intimate relationship like a serious</p> <p>10 boyfriend or girlfriend, and would not be just a</p> <p>11 casual fling or person with whom you were involved</p> <p>12 only sexually."</p> <p>13 Q. And you asked the question regarding the</p> <p>14 frequency -- this is in the same paragraph you were</p> <p>15 just reading from. "Participants answered questions</p> <p>16 regarding the frequency with which they sent text</p> <p>17 messages, sexually-explicit text messages, and</p> <p>18 sexually-explicit picture and video messages to</p> <p>19 relationship partners." Sexually explicit meant</p> <p>20 only words. Correct?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. Something only in writing?</p> <p>23 A. Yes.</p> <p>24 Q. Sexually-explicit picture and video message was a</p> <p>25 visual depiction?</p>
<p style="text-align: right;">Page 123</p> <p>1 survey?</p> <p>2 A. Yes.</p> <p>3 Q. And it was 54 percent of the people in a committed</p> <p>4 relationship in the introductory psychology classes</p> <p>5 during the two consecutive semesters you were</p> <p>6 completing the survey at Indiana-Purdue Fort Wayne?</p> <p>7 A. Yes.</p> <p>8 Q. So the participants were people who went to</p> <p>9 Indiana-Purdue Fort Wayne, were in an introductory</p> <p>10 psychology class, had volunteered to take the</p> <p>11 survey, and who were in committed relationships?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Did you have age restrictions on the</p> <p>14 participants?</p> <p>15 A. No.</p> <p>16 Q. So anybody who was in an introductory psychology</p> <p>17 class who volunteered, you would collect their data?</p> <p>18 A. Yes. We collect it, but we don't include anyone</p> <p>19 under the age of 18. We have to throw it out.</p> <p>20 Q. Okay.</p> <p>21 A. It's a technical thing that they have to be able to</p> <p>22 participate. But because we haven't gotten parental</p> <p>23 consent, we have to throw that out.</p> <p>24 Q. Okay.</p> <p>25 A. It's like they didn't even do it.</p>	<p style="text-align: right;">Page 125</p> <p>1 A. Yes.</p> <p>2 Q. Did you define the phrase "sexually explicit" in the</p> <p>3 survey?</p> <p>4 A. I did not.</p> <p>5 Q. And why didn't you define that phrase?</p> <p>6 A. This was my first study and the -- at the time,</p> <p>7 although some people had been delineating it, I</p> <p>8 didn't know that that was necessary to research what</p> <p>9 it was that I was exploring, which were the</p> <p>10 correlates with texting and attachment as well.</p> <p>11 Q. So the participants were left to define it -- were</p> <p>12 to use their own interpretation --</p> <p>13 A. That's right.</p> <p>14 Q. -- of sexually explicit? And you did measure</p> <p>15 frequency, meaning how often somebody sent a</p> <p>16 sexually-explicit image or video. Correct?</p> <p>17 A. Yes.</p> <p>18 Q. And so I think you had the categories on a Likert</p> <p>19 scale?</p> <p>20 A. Correct.</p> <p>21 Q. Am I saying that name correctly? Likert?</p> <p>22 A. Yes, Likert.</p> <p>23 Q. You had the categories never, very rarely, rarely,</p> <p>24 occasionally, often, and very often. Correct?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 126</p> <p>1 Q. So the 54 percent that I talked to earlier, where</p> <p>2 you say 54 percent reported sending</p> <p>3 sexually-explicit pictures or videos, that 54</p> <p>4 percent had sent it at least one time?</p> <p>5 A. They indicated -- yes. Either very rarely or above.</p> <p>6 Q. Above.</p> <p>7 A. So it was anything that was not never.</p> <p>8 Q. So that meant 45.9 percent of the participants in</p> <p>9 your study had reported never sending a sex picture?</p> <p>10 A. Correct.</p> <p>11 Q. And it looks like, based on Table 2, that 6.9</p> <p>12 percent had sent a sex picture often or very often.</p> <p>13 Correct?</p> <p>14 A. Yes, correct. Indicated that they had sent.</p> <p>15 Q. Indicated. Now, we talked earlier about the purpose</p> <p>16 of this article and you were looking at how sexting</p> <p>17 is related to attachment style and interpersonal</p> <p>18 relationships. Were you also trying to determine</p> <p>19 the prevalence of sexting among young adults in this</p> <p>20 article?</p> <p>21 A. I was looking at the prevalence in this sample, yes.</p> <p>22 I wasn't -- that wasn't my goal of the research.</p> <p>23 Q. And research, you mean -- what do you mean by</p> <p>24 research?</p> <p>25 A. I mean the larger research question that drove the</p>	<p style="text-align: right;">Page 128</p> <p>1 a statistical process that you use to see how items</p> <p>2 hang together in -- not necessarily measuring what</p> <p>3 you say they're measuring, but how do these items</p> <p>4 hang together. So if I ask four questions about a</p> <p>5 single topic and those questions are very strongly</p> <p>6 related to each other, meaning the person answered</p> <p>7 that question very similarly for those four</p> <p>8 questions, then your reliability for that item will</p> <p>9 be higher. And that gives you, you know,</p> <p>10 reliability of a measure.</p> <p>11 So one of the limitations of the study is that</p> <p>12 I just asked a single question. If I had asked more</p> <p>13 questions that were actually getting at the same</p> <p>14 topic without repeating myself, it would have</p> <p>15 allowed me to have greater reliability in the</p> <p>16 measure.</p> <p>17 Q. So a multi-item question -- is that the correct</p> <p>18 phrase -- would ask the same question in different</p> <p>19 variations?</p> <p>20 A. There would be a multiple question survey. So these</p> <p>21 are very common in other types of social sciences.</p> <p>22 So you might have a -- for example, a text message</p> <p>23 dependent scale might have 12 items. And three of</p> <p>24 the items are measuring one particular part of text</p> <p>25 message dependence. And, yes, they ask it in</p>
<p style="text-align: right;">Page 127</p> <p>1 study was not prevalence in young adults.</p> <p>2 Q. So your greater research project was not to</p> <p>3 determine the prevalence of sexting in young adults?</p> <p>4 A. No. That was not the greater research project goal.</p> <p>5 Q. Okay. And research, again, we mean something that's</p> <p>6 more than just this article. Correct?</p> <p>7 A. Correct.</p> <p>8 Q. We mean the collecting of data from these students?</p> <p>9 A. Correct.</p> <p>10 Q. And, in fact -- strike that.</p> <p>11 One thing you talk about on page 6 of this</p> <p>12 Exhibit DX-3 is some of the limitations of the</p> <p>13 study. You say that "our texting and sexting</p> <p>14 measures were not direct single-item questions.</p> <p>15 These single-item measures do not allow for</p> <p>16 reliability analyses."</p> <p>17 What do you mean by that?</p> <p>18 A. In a field that's well established, they often have</p> <p>19 scales, scales that will ask questions in multiple</p> <p>20 ways and will get to a question using multiple items</p> <p>21 instead of single items. At the time when I</p> <p>22 conducted this research and even now, there are no</p> <p>23 reliable scales that I know of that measure sexting.</p> <p>24 So because it's an emerging field, I had to</p> <p>25 rely on one single item. A reliability analysis is</p>	<p style="text-align: right;">Page 129</p> <p>1 different ways. So it would be a survey or -- I</p> <p>2 think "survey" is the most commonly used word to use</p> <p>3 to represent this type of thing.</p> <p>4 Q. Okay. You also talked about a limitation about the</p> <p>5 honesty in self-reporting?</p> <p>6 A. Yes.</p> <p>7 Q. And you indicate that it's possible participants</p> <p>8 didn't provide accurate, honest reports. And then</p> <p>9 you postulate that people might be hesitant to</p> <p>10 report that they sent sex pictures in texts because</p> <p>11 it's controversial and, you know, thought it was</p> <p>12 being non-normative. Did you have any indication</p> <p>13 that there was underreporting?</p> <p>14 A. No. But generally, again, the social desirability</p> <p>15 effect. This is pretty commonly seen in social</p> <p>16 sciences, that people want to portray themselves in</p> <p>17 a positive light. If you have a bias in something</p> <p>18 that's anonymous, it might be because people would</p> <p>19 like to portray themselves in a more positive light.</p> <p>20 And so in this case because, at the time especially,</p> <p>21 the sexting information that was out depicted it</p> <p>22 usually in a negative way, court cases and people</p> <p>23 being -- mainly court cases. At the time that this</p> <p>24 data was collected, the major headlines about</p> <p>25 sexting were people who were getting in legal</p>

<p style="text-align: right;">Page 130</p> <p>1 trouble for sexting. So because it's perhaps seen</p> <p>2 as controversial, non-normative, maybe some people</p> <p>3 saw it as illegal, the social desirability or the</p> <p>4 want to not say that you have done something.</p> <p>5 Q. But you didn't have any evidence from the study to</p> <p>6 suggest there was underreporting. Correct?</p> <p>7 A. No.</p> <p>8 Q. Was there any evidence to suggest that there was</p> <p>9 overreporting?</p> <p>10 A. No.</p> <p>11 Q. Okay. A few lines down on this same page we were</p> <p>12 looking at in DX-3, you say, "this study examined</p> <p>13 texting and sexting within a college sample and only</p> <p>14 within the content of close, committed</p> <p>15 relationships. Although these college students may</p> <p>16 be representative of most American young adults,</p> <p>17 this limits the generalizability of the findings."</p> <p>18 What is generalizability?</p> <p>19 A. How well you can generalize a single sample to the</p> <p>20 rest of the population.</p> <p>21 Q. And in this case, the rest of the population is</p> <p>22 what?</p> <p>23 A. American young adults.</p> <p>24 Q. American young adults. So you're saying here that</p> <p>25 the findings in this study are limited in their</p>	<p style="text-align: right;">Page 132</p> <p>1 simple polls and things that are related to</p> <p>2 underlining psychological theories. And</p> <p>3 theoretically, I would be very surprised if, in any</p> <p>4 sample, any college sample in the United States,</p> <p>5 they found something very different with regard to</p> <p>6 my contribution to theory. So prevalence data is</p> <p>7 harder to do that type of generalization, but</p> <p>8 theoretically, it's a little bit more acceptable.</p> <p>9 Q. Okay. So just to make sure I'm clear about that,</p> <p>10 your findings about the prevalence of sexting and</p> <p>11 its relationship to, for example,</p> <p>12 attachment-avoidance relationship style, might be</p> <p>13 easier to generalize than the pure findings about</p> <p>14 the prevalence of sexting among young adults?</p> <p>15 A. People would be more likely to generalize that, yes,</p> <p>16 than the prevalence data.</p> <p>17 Q. Because it has that connection to a theory?</p> <p>18 A. Because it has a connection to a theory and you're</p> <p>19 looked at a phenomenon, not prevalence. Your</p> <p>20 looking at the way in which something emerges in</p> <p>21 human behavior. And you're not looking to get, you</p> <p>22 know, a representative sample. And these facets of</p> <p>23 human behavior are often studied like this.</p> <p>24 Q. Makes sense. Would you feel comfortable -- could</p> <p>25 you generalize the prevalence findings from this</p>
<p style="text-align: right;">Page 131</p> <p>1 generalizability to all American young adults?</p> <p>2 A. Yes. They're limited in the way that they could</p> <p>3 generalize to all American young adults, yes.</p> <p>4 Q. And what does that mean? How are they limited?</p> <p>5 A. They're limited because they examine only close,</p> <p>6 committed relationships. So obviously, there are</p> <p>7 people who have not had close, committed</p> <p>8 relationships. As well, it's a college sample; not</p> <p>9 everyone's in college.</p> <p>10 Q. Could you generalize your findings to young adults</p> <p>11 in college?</p> <p>12 A. No. I'd be looking for a convergence of evidence if</p> <p>13 I were going to try to generalize. In the social</p> <p>14 sciences, we would probably not generalize to all of</p> <p>15 any time [sic]. You would probably just, as I say,</p> <p>16 look for a convergence of evidence if you wanted to</p> <p>17 make generalizations about a broader population.</p> <p>18 Q. And what do you mean by convergence of evidence?</p> <p>19 A. Convergence of evidence meaning multiple people who</p> <p>20 have looked at the issue in different places and</p> <p>21 have found something similar.</p> <p>22 Q. Okay.</p> <p>23 A. But when you're examining psychological</p> <p>24 phenomenon -- so within the scope of social</p> <p>25 sciences, again, I made this distinction between</p>	<p style="text-align: right;">Page 133</p> <p>1 study to all of Indiana-Purdue Fort Wayne, to the</p> <p>2 entire student population?</p> <p>3 A. No. For the reasons I just said. This was only</p> <p>4 committed relationships in this sample.</p> <p>5 Q. Could you generalize the findings of this study</p> <p>6 concerning the prevalence of sexting to all of the</p> <p>7 students at Indiana-Purdue Fort Wayne in committed</p> <p>8 relationships?</p> <p>9 A. I would feel comfortable doing that. You have about</p> <p>10 1200 people, I think, who take introductory</p> <p>11 psychology each semester. It's a general education</p> <p>12 requirement. It's one of the more appealing general</p> <p>13 education requirements. So as an approximate, you</p> <p>14 know, yes. And especially as relates to avoidance</p> <p>15 attachment and the attachment variables that relate</p> <p>16 to these behaviors. Yes, I'd feel comfortable doing</p> <p>17 that.</p> <p>18 Q. So you don't think -- or do you have any reason to</p> <p>19 think that the prevalence of sexting might differ</p> <p>20 between majors, for example?</p> <p>21 A. Of course it might differ between majors.</p> <p>22 Q. But not -- it wouldn't be different enough that you</p> <p>23 wouldn't feel comfortable -- let me back that up.</p> <p>24 You would feel comfortable saying that the</p> <p>25 prevalence of sexting of psychology majors in</p>

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<p style="text-align: right;">Page 134</p> <p>1 committed relationships is representative of other</p> <p>2 students at Indiana-Purdue Fort Wayne who are not --</p> <p>3 and who do not take introductory psychology classes,</p> <p>4 who are in committed relationships?</p> <p>5 A. You said two things. You said psychology majors and</p> <p>6 people in introductory psychology. Which one do you</p> <p>7 mean?</p> <p>8 Q. Let me rephrase the question. So your study looked</p> <p>9 students who had taken introductory psychology</p> <p>10 classes. Correct?</p> <p>11 A. Correct.</p> <p>12 Q. And your findings were that 54 percent of the</p> <p>13 participants had at one time sent a</p> <p>14 sexually-explicit image to someone else with whom</p> <p>15 they were in a committed relationship. Correct?</p> <p>16 A. Yes. Of the people who said that they had a</p> <p>17 committed relationship.</p> <p>18 Q. Correct. So would you feel comfortable -- do you</p> <p>19 feel comfortable saying that 54 percent of</p> <p>20 engineering majors who are in committed</p> <p>21 relationships -- or estimating. Do you feel</p> <p>22 comfortable estimating that 54 percent of</p> <p>23 engineering majors in committed relationships had</p> <p>24 sent a sexually-explicit image or video to the</p> <p>25 person with whom they are in a relationship?</p>	<p style="text-align: right;">Page 136</p> <p>1 estimating that 54 percent of people who take</p> <p>2 introductory psychology at the University of Maine</p> <p>3 have sent a sexually-explicit image or video to a</p> <p>4 person with whom they're in a committed</p> <p>5 relationship?</p> <p>6 A. Have ever. I would like to see -- before I would</p> <p>7 make that estimate, I would like to see a couple of</p> <p>8 other studies done with people who are in committed</p> <p>9 relationships. So no, not at this point.</p> <p>10 Q. Okay. I want to go back to the definition of</p> <p>11 "sexually explicit." And from what you said, that</p> <p>12 phrase was not defined for purposes of this study.</p> <p>13 Correct?</p> <p>14 A. Correct.</p> <p>15 Q. Do you have any data on the number of people who</p> <p>16 sent videos as opposed to pictures?</p> <p>17 A. I don't.</p> <p>18 Q. Do you have any data on the type of</p> <p>19 sexually-explicit conduct that was depicted?</p> <p>20 A. Not in this study, no.</p> <p>21 Q. Okay. So for example, you don't know how many of</p> <p>22 the depictions were of sexual intercourse?</p> <p>23 A. No.</p> <p>24 Q. You also don't know if certain participants</p> <p>25 construed the words sexually -- let me rephrase</p>
<p style="text-align: right;">Page 135</p> <p>1 MS. BAUMGARDNER: Objection.</p> <p>2 You can go ahead and answer.</p> <p>3 A. Can I point you to a part of the document that I</p> <p>4 think is very important for you to consider before I</p> <p>5 answer this question?</p> <p>6 Q. Actually, I'd prefer you to give the answer first,</p> <p>7 and then why don't you direct me to the part of the</p> <p>8 document.</p> <p>9 A. Yes. I feel comfortable applying this to any major.</p> <p>10 Because as you can see on page 446 under 2.1, more</p> <p>11 than 48 different majors were represented.</p> <p>12 In my average psychology introductory class,</p> <p>13 oftentimes I can have one or two people out of 86</p> <p>14 who think they want to be psychology majors. It's a</p> <p>15 general education -- not requirement, but one of the</p> <p>16 more appealing classes that fits in the general</p> <p>17 education program. So people of all different</p> <p>18 majors take introductory psychology. So we are</p> <p>19 not -- this is not just about psychology majors,</p> <p>20 this is about -- I mean, 48 different majors. I'm</p> <p>21 actually not certain how many majors we have at</p> <p>22 Indiana-Purdue Fort Wayne, but I would suspect it's</p> <p>23 probably not a lot more than 48.</p> <p>24 Q. Okay. Would you feel comfortable generalizing -- or</p> <p>25 estimating, I'm sorry. Would you feel comfortable</p>	<p style="text-align: right;">Page 137</p> <p>1 that.</p> <p>2 You also don't know if some of the images that</p> <p>3 were sent from participants were of people who were</p> <p>4 only partially nude, for example?</p> <p>5 A. That's correct. I don't know.</p> <p>6 Q. Okay. You said earlier, you wouldn't feel</p> <p>7 comfortable making -- you wouldn't be able to</p> <p>8 estimate the percentage of students in introductory</p> <p>9 psychology classes at the University of Maine, who</p> <p>10 were in committed relationships, about the</p> <p>11 prevalence of sexting in that population. Correct?</p> <p>12 A. That's correct.</p> <p>13 Q. So would you feel comfortable, solely off the basis</p> <p>14 of this article, making an estimate of the number of</p> <p>15 young adults in the country who have sent a</p> <p>16 sexually-explicit photograph or video?</p> <p>17 A. On the basis of this article, no.</p> <p>18 Q. Okay. What more would you need in order to make</p> <p>19 that estimate?</p> <p>20 A. Other studies. Other studies that have looked at</p> <p>21 maybe national samples. And when I use the word</p> <p>22 "study," I'm using that loosely to also include what</p> <p>23 I see as just kind of prevalence data gathering</p> <p>24 studies. I think that's what I would need.</p> <p>25 Q. How many would you need?</p>

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<p style="text-align: right;">Page 138</p> <p>1 A. Probably six.</p> <p>2 Q. Six?</p> <p>3 A. No. The actual number -- if not asked to make an</p> <p>4 estimation -- making estimations about prevalence</p> <p>5 data is not something that's typical in social</p> <p>6 science research. So there's no set amount of</p> <p>7 studies, from my perspective, that you would need to</p> <p>8 make these types of estimates. Making an estimate</p> <p>9 is taking the knowledge that is currently available</p> <p>10 and making a judgment based on your knowledge, your</p> <p>11 personal knowledge, and the knowledge that you see.</p> <p>12 So the number that I referenced in my statement is</p> <p>13 the number that I feel comfortable with making this</p> <p>14 estimate.</p> <p>15 Q. Have you made estimates of prevalence in any other</p> <p>16 context, other than sexting?</p> <p>17 A. No, I haven't.</p> <p>18 Q. Have you made any estimates of sexting other than</p> <p>19 the one you made in your expert report?</p> <p>20 A. Estimates of sexting. Well, kind of. I mean, when</p> <p>21 I -- when I produce these articles or I give these</p> <p>22 presentations, although the limitations are stated,</p> <p>23 it's sometimes inferred that this is kind of an</p> <p>24 estimate in the population. So kind of, but not</p> <p>25 explicitly.</p>	<p style="text-align: right;">Page 140</p> <p>1 they have. I don't -- I don't believe that I have</p> <p>2 made any estimates of national percentages.</p> <p>3 Q. Okay. I wanted to move on to another exhibit. This</p> <p>4 is DX-4, I believe.</p> <p>5 (Whereupon, Deposition Exhibit No. DX-4,</p> <p>6 Computers in Human Behavior, Let's talk</p> <p>7 about sexting, baby: Computer-mediated</p> <p>8 sexual behaviors, was marked for</p> <p>9 identification.)</p> <p>10 Q. This is another article. I believe its six pages</p> <p>11 long, called "Let's talk about sexting, baby:</p> <p>12 Computer-mediated sexual behaviors among young</p> <p>13 adults." The authors are Michelle Drouin, Kimberly</p> <p>14 N. Vogel, Alisen Surbey, and Julie R. Stills. Have</p> <p>15 you seen this document before?</p> <p>16 A. Yes.</p> <p>17 Q. And this is an article that you published or have</p> <p>18 published online in 2013?</p> <p>19 A. Yes. I'm not sure that it's out in print yet.</p> <p>20 Q. Okay. But it will be published in print at some</p> <p>21 point?</p> <p>22 A. Yeah. Very likely, if it hasn't already come out,</p> <p>23 in the next couple of months.</p> <p>24 Q. Okay.</p> <p>25 A. Some journals are quicker than others.</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. What about a national estimate -- an estimate of the</p> <p>2 national prevalence of sexting?</p> <p>3 A. I've never made, aside from in this report, an</p> <p>4 estimate of the national prevalence.</p> <p>5 Q. Okay. So the estimate you made in your expert</p> <p>6 report is the only estimate you've made about</p> <p>7 prevalence in any context?</p> <p>8 A. As I recall.</p> <p>9 Q. And you can't think of any others?</p> <p>10 A. I think in a media interview I probably said this is</p> <p>11 more common than you think. It's happening more</p> <p>12 common than you think. I think in the New York</p> <p>13 Times mini op-ed that I wrote, I think I said that</p> <p>14 it was more common than what people might assume.</p> <p>15 So that is commenting on national prevalence, but</p> <p>16 nothing where I've had to come up with a particular</p> <p>17 percentage.</p> <p>18 Q. So this is the only instance in which you've come up</p> <p>19 with a percentage --</p> <p>20 A. Yes.</p> <p>21 Q. -- for prevalence estimation nationwide?</p> <p>22 A. Nationwide. I believe so. Again, in my media</p> <p>23 interviews, I don't know that I specified that this</p> <p>24 was only in this sample. I could have said, you</p> <p>25 know, 54 percent or whatever percentage said that</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. Okay. And you were the principal author of this</p> <p>2 article?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. This also looks at sexting among a population</p> <p>5 at a medium-size university in the midwestern United</p> <p>6 States. And I think you say that on page 3. Is</p> <p>7 that medium-size university, Indiana-Purdue Fort</p> <p>8 Wayne?</p> <p>9 A. Yes.</p> <p>10 Q. And is the data discussed in this article, was it</p> <p>11 collected in the same process that you collected the</p> <p>12 data in the 2012 article, which we marked Exhibit</p> <p>13 DX-3?</p> <p>14 A. It was the same process, yes.</p> <p>15 Q. Was it the exact same data, or is this different?</p> <p>16 Was it the exact same data?</p> <p>17 A. No. Different data.</p> <p>18 Q. So this was newer data?</p> <p>19 A. Yes.</p> <p>20 Q. But it was the same process?</p> <p>21 A. Yes.</p> <p>22 Q. Do you remember when you collected the data for the</p> <p>23 2013 article, DX-4?</p> <p>24 A. Fall 2011.</p> <p>25 Q. Okay. Oh, I see that there. I'm sorry.</p>

<p style="text-align: right;">Page 142</p> <p>1 A. Yes. That's okay.</p> <p>2 Q. The purpose of this article was different than your</p> <p>3 previous article, which we marked DX-3. Here you</p> <p>4 were trying to provide a more descriptive analysis</p> <p>5 of sexting behavior. And then you were specifically</p> <p>6 looking at different types of relationships, defined</p> <p>7 more specifically than committed. Correct?</p> <p>8 A. Yes.</p> <p>9 Q. And the beginning of your article, on the first and</p> <p>10 second pages, you discuss some of the</p> <p>11 inconsistencies in the way sexting has been defined.</p> <p>12 Correct?</p> <p>13 A. Yes.</p> <p>14 Q. What were some of the inconsistencies you found?</p> <p>15 A. So content, medium, and relationship context are the</p> <p>16 three that I mentioned here. So the content has</p> <p>17 been defined in different ways. Sexually explicit,</p> <p>18 such as what I used in my previous study. Some</p> <p>19 people have said nude or nearly nude to describe</p> <p>20 sexually transmitted visual depictions. More</p> <p>21 recently, people have started delineating the types</p> <p>22 of content, nude or semi-nude. The content one is</p> <p>23 described on page 2. Ferguson, erotic or nude</p> <p>24 photographs. So there have been much -- there's</p> <p>25 been much variance in the terminology used to</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. So in this study, when you conducted the survey --</p> <p>2 let me back up. I'm sorry.</p> <p>3 When you conducted the study that was discussed</p> <p>4 in the 2012 article which we marked DX-3, you used</p> <p>5 the word "sexually explicit," but you didn't provide</p> <p>6 any sort of clarifying definition. Correct?</p> <p>7 A. That's correct.</p> <p>8 Q. So in this study, the 2013 study marked DX-4, you</p> <p>9 did provide some further definitions. Correct?</p> <p>10 A. Correct.</p> <p>11 Q. So I think on page 3 of the article, under Content</p> <p>12 of picture or video message, you asked participants</p> <p>13 whether the picture or video that they had sent</p> <p>14 contained the following types of images: Nude,</p> <p>15 nearly nude, engaged in a sex act with another</p> <p>16 person, engaged in a solo sex act (e.g.,</p> <p>17 masturbation), or in a sexually-suggestive pose</p> <p>18 (e.g., cleavage showing but clothed. Correct?</p> <p>19 A. Yes.</p> <p>20 MS. BAUMGARDNER: Excuse me. Where -- what</p> <p>21 part?</p> <p>22 THE WITNESS: Page 3, right here.</p> <p>23 MR. SWINTON: The second column.</p> <p>24 MS. BAUMGARDNER: Okay. Thank you.</p> <p>25 * * *</p>
<p style="text-align: right;">Page 143</p> <p>1 describe sexually-explicit visual depictions.</p> <p>2 Q. And why is this a problem?</p> <p>3 A. It's a problem because you may not be comparing the</p> <p>4 same thing across studies. So some of these might</p> <p>5 be more liberal definitions, some are more narrow.</p> <p>6 Q. So for example, if a study's definition of sexually</p> <p>7 explicit included people who were clothed but</p> <p>8 sexually suggestive, and a separate study's</p> <p>9 definition of sexually explicit was limited just to</p> <p>10 people who are nude, the former we might expect to</p> <p>11 have a higher prevalence rate because it is</p> <p>12 encompassing a broader range of images?</p> <p>13 A. Yes. It depends on the interpretation. It might</p> <p>14 also be narrower. Maybe someone thinks something</p> <p>15 that -- remember this is from the respondent's</p> <p>16 perspective. So you just don't know, you don't</p> <p>17 know. Yes.</p> <p>18 Q. We're not talking -- we're not comparing apples to</p> <p>19 apples, in other words?</p> <p>20 A. Yeah. That's exactly the term that I was thinking</p> <p>21 of but I didn't use, yes. Yes. You're not always</p> <p>22 comparing. And so some of these might not be</p> <p>23 capturing the full scope. They might be -- they</p> <p>24 might be too narrowly defined to include all of the</p> <p>25 things that sexting might be to people.</p>	<p style="text-align: right;">Page 145</p> <p>1 BY MR. SWINTON:</p> <p>2 Q. Where did you get these definitions from?</p> <p>3 Let me ask it in a different way: How did you</p> <p>4 come up with these definitions?</p> <p>5 A. I think that they are similar to what I saw in --</p> <p>6 let me find -- Mitchell, Finkelhor, Jones and Wolak</p> <p>7 (2012). They did some research on children and</p> <p>8 teens where they had the children and teens</p> <p>9 delineate the subcategories. I'm not sure that I</p> <p>10 copied them exactly, but I think that was used as an</p> <p>11 inspiration.</p> <p>12 Q. So the way that the researchers in that study, the</p> <p>13 Mitchell, Finkelhor study, you thought it was</p> <p>14 helpful the way that they had broken this down?</p> <p>15 A. (Nodding).</p> <p>16 Q. And in particular, you thought that the way they had</p> <p>17 broken it down was helpful. Correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 A. I think also distinguishing between nude and nearly</p> <p>21 nude, as those were terms that were already included</p> <p>22 in the previous research. So this was just looking</p> <p>23 at the previous research and the terminology that</p> <p>24 they had used in trying to delineate them.</p> <p>25 Q. Was there any further definition of nude?</p>

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<p>1 A. No.</p> <p>2 Q. Was there any further definition of nearly nude?</p> <p>3 A. No.</p> <p>4 Q. Was there a further definition of engaged in a sex</p> <p>5 act with another person?</p> <p>6 A. No.</p> <p>7 Q. So were participants instructed that that would</p> <p>8 include oral sex?</p> <p>9 A. No.</p> <p>10 Q. And after "engaged in a solo act," you have a</p> <p>11 parenthetical that says "e.g., masturbation." Was</p> <p>12 that example given to the participants in the</p> <p>13 survey?</p> <p>14 A. Yes.</p> <p>15 Q. Were they given any other examples of a solo sex</p> <p>16 act?</p> <p>17 A. No.</p> <p>18 Q. And also after "sexually-suggestive pose," you have</p> <p>19 the parenthetical, "e.g., cleavage showing." Were</p> <p>20 participants given that example in the survey?</p> <p>21 A. Yes.</p> <p>22 Q. And were they given any other example of</p> <p>23 sexually-suggestive pose?</p> <p>24 A. No.</p> <p>25 Q. Okay. So again, the response rates in terms of</p>	<p>1 Q. And let's turn to Table 1 on page 4. So when you</p> <p>2 have the results for people who had sent a sex</p> <p>3 picture or video, it's committed partners, 49</p> <p>4 percent; casual sex partners, 37 percent; and</p> <p>5 cheating partners, 45 percent. Correct?</p> <p>6 A. Yes.</p> <p>7 Q. These results were not broken out further by</p> <p>8 frequency. Correct?</p> <p>9 A. Not for this article.</p> <p>10 Q. So, for example, in the committed partner column,</p> <p>11 49 percent were determined to have sent sex pictures</p> <p>12 or video, that could range anywhere from one time to</p> <p>13 multiple times?</p> <p>14 A. Yes.</p> <p>15 Q. And same for the results for casual sex partner and</p> <p>16 cheating partner. Correct?</p> <p>17 A. Yes.</p> <p>18 Q. I want to go to page 5 of the article, at the bottom</p> <p>19 under subsection 4.1, Limitations and conclusion.</p> <p>20 A. Yes.</p> <p>21 Q. Some of these limitations that you discuss are</p> <p>22 similar to the ones you discussed in the 2012</p> <p>23 article, DX-3. For example, you say, "Most notably,</p> <p>24 our study focused on a sample of undergraduates in</p> <p>25 the United States. This sample is, by no means,</p>
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<p>1 whether, for example, somebody had sent a picture</p> <p>2 that was sexually -- of a person in a</p> <p>3 sexually-suggestive pose, that was based on the</p> <p>4 respondent's interpretation of what that term meant,</p> <p>5 with the help of your example of cleavage showing.</p> <p>6 Correct?</p> <p>7 A. Yes.</p> <p>8 Q. Now, like in your 2012 study, you also measured the</p> <p>9 frequency with which a person had sent a sex picture</p> <p>10 or video. Correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you used the same six-point Likert scale?</p> <p>13 A. Yes. I believe I did, yes.</p> <p>14 Q. So when we have your results that shows 37 to 49</p> <p>15 percent of the participants had sent sex pictures or</p> <p>16 videos to romantic partners --</p> <p>17 MS. BAUMGARDNER: Where are you?</p> <p>18 MR. SWINTON: Oh, I'm sorry. This is the</p> <p>19 bottom of page 3.</p> <p>20 MS. BAUMGARDNER: Okay.</p> <p>21 MR. SWINTON: It's under 3. Results,</p> <p>22 subsection 3.1.</p> <p>23 MS. BAUMGARDNER: Okay. Thank you.</p> <p>24 THE WITNESS: It's also depicted in Table 1,</p> <p>25 on page 4.</p>	<p>1 representative all American young adults."</p> <p>2 Can you explain what you meant by those</p> <p>3 statements?</p> <p>4 A. Because it's focused on undergraduates, then you</p> <p>5 can't apply it to American young adults. Because</p> <p>6 not all young adults are undergraduates.</p> <p>7 Q. Correct. And this study also didn't -- this study</p> <p>8 also didn't include responses for people who were</p> <p>9 not in relationships. Correct?</p> <p>10 A. Let's see. Some type of relationship. The analyses</p> <p>11 include people who have only some type of</p> <p>12 relationship.</p> <p>13 Q. Correct.</p> <p>14 A. Yes. Have had.</p> <p>15 Q. Those types are committed, casual, and cheating?</p> <p>16 A. That's right.</p> <p>17 Q. So someone who had never had a committed, casual, or</p> <p>18 cheating relationship would not be included in the</p> <p>19 results of this study?</p> <p>20 A. That's correct.</p> <p>21 Q. Is that another reason why this might not be</p> <p>22 representative of all American young adults?</p> <p>23 A. Yes.</p> <p>24 Q. So there are two reasons that you've identified why</p> <p>25 the sample may not be representative of all American</p>

<p style="text-align: right;">Page 150</p> <p>1 young adults, the fact that it was focused on</p> <p>2 undergraduates in the United States and the fact</p> <p>3 that it included people who had only been in</p> <p>4 committed, casual, or cheating relationships?</p> <p>5 A. Yes.</p> <p>6 (Whereupon, Deposition Exhibit No. DX-5,</p> <p>7 Sexting Behaviors Among Young Hispanic</p> <p>8 Women: Incidence and Association with</p> <p>9 Other High-risk Sexual Behaviors, was</p> <p>10 marked for identification.)</p> <p>11 Q. Okay. We'll look at one more document. I just</p> <p>12 handed you document DX-5. It's an article that is</p> <p>13 five pages long -- excuse me, six pages long. It's</p> <p>14 by Christopher J. Ferguson. It's titled Sexting</p> <p>15 Behaviors Among Young Hispanic Women: Incidence and</p> <p>16 Association with Other High-risk Sexual Behaviors.</p> <p>17 A. Yes.</p> <p>18 Q. Have you seen this document before?</p> <p>19 A. I have, yes.</p> <p>20 Q. And this is a study that you reference in your</p> <p>21 expert report. Correct?</p> <p>22 A. I did, yes.</p> <p>23 Q. Okay. How did you become aware of this study?</p> <p>24 A. I did a broader search for incidence or prevalence</p> <p>25 data, and I found this study.</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. Specifically, you said, "Differences in the</p> <p>2 definition of sexting and composition of the samples</p> <p>3 may have contributed to the difference in</p> <p>4 prevalence."</p> <p>5 So those differences in the composition of the</p> <p>6 sample, the ones you identified were sex, meaning</p> <p>7 the Ferguson article looked at only women. Correct?</p> <p>8 A. Yes.</p> <p>9 Q. And another difference you noted was relationship</p> <p>10 status, meaning the two studies you conducted were</p> <p>11 of people who were only in some type of</p> <p>12 relationship?</p> <p>13 A. Yes.</p> <p>14 Q. And third, geographic area. The Ferguson study</p> <p>15 looked at women who were at a college in the South,</p> <p>16 and your two studies looked at participants who were</p> <p>17 at Indiana-Purdue Fort Wayne. Correct?</p> <p>18 A. Yes.</p> <p>19 Q. And ethnicity. The difference there was the</p> <p>20 Ferguson article looked at students at a Hispanic</p> <p>21 serving university with a 96.1 response rate of</p> <p>22 Hispanics. Correct?</p> <p>23 A. Yes.</p> <p>24 Q. Were there any other differences that you noted</p> <p>25 between the studies?</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. And when did you do that search?</p> <p>2 A. I probably did the search in February.</p> <p>3 Q. In February. After you were asked to complete the</p> <p>4 expert report?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Now, this survey found that 20.5 percent of</p> <p>7 the sample population had sent nude or erotic photos</p> <p>8 of themselves to someone else at least once.</p> <p>9 Correct? And I believe that conclusion is listed on</p> <p>10 page 3 of the article under the heading Results and</p> <p>11 Incidence.</p> <p>12 A. Yes.</p> <p>13 Q. And on page 2, it describes the type of participants</p> <p>14 who responded to the survey. There were 207 young</p> <p>15 women enrolled at a Hispanic-serving university in</p> <p>16 the South, 96.1 percent were Hispanic.</p> <p>17 And I'm sorry to jump documents on you, but if</p> <p>18 we go back to DX-2, which is your expert report.</p> <p>19 A. Yes.</p> <p>20 Q. And I believe you discussed some -- you compared</p> <p>21 this article to -- the findings in this article, you</p> <p>22 compared to the findings in your 2012 and 2013</p> <p>23 articles. Correct? And I'm on page 4 of your</p> <p>24 expert report.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 153</p> <p>1 A. These were examples of things that might influence</p> <p>2 the prevalence rate differences. So I wasn't</p> <p>3 looking specifically for differences in these</p> <p>4 studies. So, no, nothing that I noticed.</p> <p>5 Q. Were there any other differences that might have</p> <p>6 influenced the prevalence rate that you didn't list?</p> <p>7 A. Oh. Not that I know of.</p> <p>8 Q. What would be the problem with taking the -- I'm</p> <p>9 sorry.</p> <p>10 The Ferguson study says 20.5 percent of young</p> <p>11 women reported sending erotic or nude photographs of</p> <p>12 themselves to others at least once. Could I take</p> <p>13 that figure and say 20.5 percent of young women in</p> <p>14 the country have sent erotic or nude photographs of</p> <p>15 themselves to others at least once?</p> <p>16 MS. BAUMGARDNER: Objection.</p> <p>17 A. Could you? I mean you could do anything you want.</p> <p>18 So . . .</p> <p>19 Q. Would that be a legitimate research method?</p> <p>20 A. That's not a research method, but would it be a</p> <p>21 legitimate --</p> <p>22 Q. Would it be a legitimate estimate?</p> <p>23 A. I probably wouldn't make that estimate, no.</p> <p>24 Q. And why wouldn't you make that estimate?</p> <p>25 A. I wouldn't make that estimate because there are --</p>

<p style="text-align: right;">Page 154</p> <p>1 there's a significant body of research that shows</p> <p>2 that ethnicity is a strong determinant of a lot of</p> <p>3 behaviors. So ethnicity is usually always included</p> <p>4 as a factor in analyses. So that would be one</p> <p>5 reason.</p> <p>6 Q. Are there other reasons?</p> <p>7 A. It's a relatively small sample.</p> <p>8 Q. With 207 participants?</p> <p>9 A. Yeah. And being in the South and relying on one</p> <p>10 study. I think estimating on the basis of one study</p> <p>11 would be difficult to do. Not recommended.</p> <p>12 Q. Sure. Understood. Do you recall how this study</p> <p>13 defined erotic or nude photographs?</p> <p>14 A. Let's see. I believe that the only information that</p> <p>15 they provided is here on 240, which is the second</p> <p>16 page of the survey. "How frequently they 'sent</p> <p>17 erotic or nude photographs of myself (sexting) to</p> <p>18 another person' and 'received nude/erotic.'" Which</p> <p>19 you have different -- they gave you different data</p> <p>20 regarding that, so . . .</p> <p>21 Q. Is that another reason why it would be difficult to</p> <p>22 compare the findings in this study or that the</p> <p>23 prevalence data might be different in the Ferguson</p> <p>24 study compared with the findings in your 2012 and</p> <p>25 2013 studies?</p>	<p style="text-align: right;">Page 156</p> <p>1 studies because of an inconsistent definition.</p> <p>2 Q. And are there things you can do to address the lack</p> <p>3 of consistency in definition when you're making a</p> <p>4 comparison?</p> <p>5 A. Like statistically? What's . . .</p> <p>6 Q. Let's start there. Are there things you can do</p> <p>7 statistically?</p> <p>8 A. Not really. I don't know of anything statistically</p> <p>9 that could be done. Because you're talking about</p> <p>10 different definitions.</p> <p>11 Q. Are there any other things that could be done,</p> <p>12 non-statistically?</p> <p>13 A. People getting together and deciding on a consistent</p> <p>14 definition, which was one of the objectives, I</p> <p>15 think, of the roundtable. Because we realized that</p> <p>16 the definition of sexting was a bit vague. So that</p> <p>17 was one of the purposes. We did not emerge, though,</p> <p>18 with a cohesive definition. So I don't know that</p> <p>19 that was accomplished. But aside from researchers</p> <p>20 all deciding upon a consistent definition, there's</p> <p>21 really nothing that can be done. But that was</p> <p>22 really the point of my second article, was that we</p> <p>23 do need some type of consistent definition.</p> <p>24 Q. Sure. And the only way you can think about to do</p> <p>25 that is to get all the researchers together in some</p>
<p style="text-align: right;">Page 155</p> <p>1 A. The definition?</p> <p>2 MS. BAUMGARDNER: Objection.</p> <p>3 But go ahead.</p> <p>4 A. The definition, I think in some studies has been</p> <p>5 under-inclusive. So that makes comparability</p> <p>6 difficult. So, yes.</p> <p>7 Q. So the difference in the definition of sexting --</p> <p>8 the lack of definition for sexting in the 2012</p> <p>9 article and the 2013 article you wrote and also the</p> <p>10 Ferguson article, makes it difficult to compare the</p> <p>11 results?</p> <p>12 A. Did you say that there's a lack of definition in</p> <p>13 each of those articles?</p> <p>14 Q. The lack of a same definition?</p> <p>15 A. A consistent definition across studies?</p> <p>16 Q. Consistent definition.</p> <p>17 A. It doesn't make comparisons -- what it would do is</p> <p>18 make you consider it in your estimation, if asked to</p> <p>19 make an estimation. You would consider the fact</p> <p>20 that there were not consistent definitions and you</p> <p>21 would try to make a judgment about whether you</p> <p>22 thought those definitions were under-inclusive and</p> <p>23 make estimations on that. So yes -- I guess the</p> <p>24 answer is yes. It would make comparability, direct</p> <p>25 comparability, of the statistics difficult across</p>	<p style="text-align: right;">Page 157</p> <p>1 way and have people agree to use the same</p> <p>2 definition?</p> <p>3 A. Or have some mandate, some legal mandate that you</p> <p>4 must define it in this way. I do literacy</p> <p>5 research -- or that was my primary research for a</p> <p>6 number of years. And right now, I'm doing an</p> <p>7 article on the inconsistency of the measuring of</p> <p>8 letter knowledge. Letter knowledge might seem like</p> <p>9 a rather simple term, a child's knowledge of the</p> <p>10 letters. But there's so many nuances of letter</p> <p>11 knowledge. So it's been defined differently by</p> <p>12 researchers. Does that keep them from making</p> <p>13 cross-study comparisons? No. But I mean, you</p> <p>14 rarely find consistency in the definition of letter</p> <p>15 knowledge, the way they measure it.</p> <p>16 Someone might give eight letters, if the child</p> <p>17 knows it, then that's their score. Another might</p> <p>18 give them three sets of batteries where they have to</p> <p>19 write the letters, know the letter sounds, know</p> <p>20 letter names. And that's also called letter</p> <p>21 knowledge. So you would hope for this type of</p> <p>22 coming together by researchers, but it doesn't</p> <p>23 happen usually.</p> <p>24 Q. Sure.</p> <p>25 A. I would like to add one more thing. And that is</p>

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<p style="text-align: right;">Page 158</p> <p>1 that letter knowledge is still equated to reading, 2 despite the fact that you have this very 3 inconsistent definition. 4 Q. Meaning what? There's a common use of the phrase? 5 A. Meaning that even though there's no consistent 6 definition, it's still being used as a predictor of 7 reading ability. So people in the social sciences 8 still, even though we have these inconsistent 9 definitions, we still make generalizations about 10 correlations based -- even though there are 11 inconsistent definitions. 12 Q. Do you make estimates of prevalence? 13 MS. BAUMGARDNER: Objection. 14 Go ahead. 15 A. I've never had to. 16 Q. Okay. Are you aware of anybody else making 17 prevalence estimates? 18 MS. BAUMGARDNER: Objection. Anyone? 19 MR. SWINTON: You can answer the question. 20 A. Am I aware? Estimates of prevalence of what? 21 Q. Of letter reading. I'm sorry. 22 A. Of letter knowledge? 23 Q. Yeah. 24 A. I am pretty sure that there are probably statistics 25 about how many children enter kindergarten with</p>	<p style="text-align: right;">Page 160</p> <p>1 don't see any distribution data for their -- if they 2 only had two 16-year olds, or even one. They could 3 have had one 16-year old. So without having the 4 data about what their sample characteristics were, I 5 don't know how different it might be. 6 The fact that they were at a Hispanic 7 university means to me that I would suspect that the 8 data is not largely based on 16-year olds, since 9 they were at a university. 10 Q. If there was a different study -- strike that. 11 I'm going to go back to your expert report and 12 your discussion of the three studies we were just 13 looking at. I think this is mostly on page -- well, 14 it starts on page 2, but it's kind of summarized 15 more on page 4 to 5. So we talked about the 16 disparate results and where you say it's difficult 17 to generalize our findings to a national sample. 18 Correct? 19 A. Yes. 20 Q. The next sentence you say "if the findings from 21 Drouin and Landgraff and Drouin could be 22 generalized, then a large number of U.S. college 23 students (approximately 8.6 million) may have 24 transmitted sexually-explicit visual depictions via 25 text message." Correct?</p>
<p style="text-align: right;">Page 159</p> <p>1 letter knowledge. 2 Q. Okay. 3 A. I haven't read them, but I'm pretty sure I've heard 4 of things like that. 5 Q. Okay. I wanted to just go back to the Ferguson 6 article, one point -- let's see where this is 7 stated. I guess it's on the first page in the 8 abstract, and it's talking about the sample. And it 9 says the sample size consisted of women ages 16 to 10 25. And I just want to make it clear that this 11 would be another reason why it would be difficult to 12 compare the findings in the Ferguson article to your 13 findings in your 2012 and 2013 articles. Correct? 14 A. Yes. That could be, potentially. 15 Q. Because this is a broader age range than what you 16 were looking at in your 2012, 2013 articles? 17 MS. BAUMGARDNER: Objection. 18 A. No. It's not a broader age range. In my 2013 19 article, I had a broader age range. Do you mean 20 younger? 21 Q. Yeah. Your age range started at 18 and above. I'm 22 sorry. I shouldn't have used the word "broader." 23 It's a different age range than what you were using 24 in your 2012, 2013 articles. 25 A. Yes. Slightly different. Though without their -- I</p>	<p style="text-align: right;">Page 161</p> <p>1 A. Yes. 2 Q. And so that estimate excludes the Ferguson article. 3 Correct? 4 A. Yes. 5 Q. It's just the two articles for which you were the 6 principal author? 7 A. Yes. 8 Q. What do you mean "if the findings could be 9 generalized"? 10 A. If they could be generalized. Whether or not they 11 applied to a general population is unknown. 12 Q. Okay. 13 A. Because of what I say in the last sentence, romantic 14 relationships in undergraduate institutions are the 15 primary -- 16 Q. Right. 17 A. -- issues. 18 Q. Right. So if the findings could be generalized 19 means it's difficult to generalize. But if you were 20 to make an estimate based on the findings in those 21 two articles, this is what it would be. Correct? 22 A. Yes. 23 Q. Okay. In the next paragraph you say, "Too few 24 research studies have examined this topic among 25 undergraduates in the United States to make</p>

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<p style="text-align: right;">Page 162</p> <p>1 reasonable, scientific estimates of the prevalence 2 of sexting involving visual depictions within this 3 group." Correct? 4 A. Yes. 5 Q. How many research studies on sexting and young 6 adults, among undergraduates in the United States 7 are you aware of? 8 A. A handful, five, six. 9 Q. So are there more than the three -- than the two you 10 did and then the Ferguson article? 11 A. I think -- none come to mind. Looking at 12 undergraduates except for the Weisskirch and Delevi 13 study, which I've already mentioned. Others don't 14 limit themselves to undergraduate populations. And 15 again, as I said before, my recent research in this 16 topic, really looking for articles especially about 17 undergraduates and prevalence of sexting, that's not 18 been the focus of my recent literature searches. 19 Q. So you're aware -- 20 A. So there could be some that exist. 21 Q. Excuse me. So you are aware of four articles that 22 have examined sexting among undergraduates in the 23 United States? 24 A. Could I -- yes. Among undergraduates, those four 25 articles.</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. Sure. 2 A. In their generalizability. 3 Q. So in other words, you cannot generalize the 4 preference of sexting among undergraduates in the 5 United States on the basis of those three studies 6 solely? 7 A. Yeah. And the fourth study, yes. 8 Q. Okay. And you say -- I'm at the top of page 5 here, 9 the last sentence in the paragraph -- "the cohort of 10 students at our undergraduate institution in the 11 Midwestern United States is qualitatively different 12 somehow from young adults in other parts of the 13 country." What do you mean by "qualitatively 14 different?" 15 A. Different in some way that you could talk about and 16 understand, qualitatively. Describe. 17 Q. What's an example of a difference? 18 A. Perhaps people in Fort Wayne are conservative. That 19 would be an example. 20 Q. Could it also refer to gender makeup? 21 A. Oh, yes. 22 Q. Racial makeup? 23 A. Sure. 24 Q. And number of people in relationships? 25 A. Yes.</p>
<p style="text-align: right;">Page 163</p> <p>1 Q. Okay. 2 A. Exclusively undergraduates. 3 Q. Okay. And you say, too few studies have been 4 examined on sexual -- on sexting in young adults 5 among undergraduates to make reasonable scientific 6 estimates of the prevalence of sexting, visual 7 depictions within this group. 8 What group are you talking about in that 9 sentence? 10 A. Undergraduates. 11 Q. Okay. So in other words, you're saying you cannot 12 make nationwide estimates of the prevalence of 13 sexting among undergraduates in the United States 14 based on these three articles you mention in your 15 report that look at sexting among undergraduates 16 alone. Correct? 17 A. But remember, two of those -- my two studies focused 18 on only people within relationships. 19 Q. Correct. 20 A. And the other one was focused only on Hispanic 21 women. And the other one gives no prevalence data. 22 So I'm not talking about number. I'm talking about 23 the fact that too few studies have been done that 24 have -- that can capture the whole range of 25 behavior, so each of these has limitations.</p>	<p style="text-align: right;">Page 165</p> <p>1 Q. Views about sex? 2 A. Yes. 3 Q. Can you make reasonable scientific estimates about 4 the prevalence of sexting involving visual 5 depictions among all young adults in the United 6 States on the basis of the 2012 Drouin article, the 7 2013 Drouin article? 8 A. No. That would be very difficult. 9 Q. No, you can't do it? 10 A. No. 11 Q. And why not? 12 A. Because my samples were undergraduates in 13 relationships of some sort. 14 Q. And can you draw -- I'm sorry. Can you make an 15 estimate, a reasonable scientific estimate about the 16 prevalence of sexting involving visual depictions 17 among young adults in the entire United States based 18 on the 2012 Drouin article, the 2013 Drouin article, 19 and the Ferguson article? 20 A. No. I would not feel comfortable making such 21 estimates on the basis of studies that had a narrow 22 population focus without considering other sources 23 of information to make an estimate. 24 Q. What other sources of information would you need in 25 order to make an estimate?</p>

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<p style="text-align: right;">Page 166</p> <p>1 A. I think what I would be looking is a convergence of 2 evidence. So it could be that Hispanic women aged 3 16 to 25 is very different than the participants 4 that we had who are in relationships in Fort Wayne. 5 However, it could be that they were very similar. 6 We don't know. So what I would be looking for are 7 other studies that are showing similar percentages. 8 Other people that are coming to similar conclusions 9 about the prevalence -- if that's what you're asking 10 me to estimate -- the prevalence in different 11 samples. 12 So in social science research, the type of 13 polling study that we discussed earlier, I 14 actually -- that's not primarily what social 15 scientists do. Social scientists take samples from 16 their particular area and they're looking at some 17 phenomenon. And although they don't say 18 definitively that these apply to the rest of the 19 United States, they would say this is what I found 20 and I think it probably applies pretty generally, 21 because I don't see anything that would make these 22 results seem like they can't be included, they're 23 not valid for any reason. 24 And then in a larger picture, what social 25 scientists might do, is something called a meta</p>	<p style="text-align: right;">Page 168</p> <p>1 is a mathematical interpretation or definition of 2 extrapolation and there's a definition of 3 extrapolation that deals with human experience. And 4 so you're supposed to look at what exists -- that 5 you know of that exists, and make an estimate based 6 on your knowledge of what currently exists. 7 Q. And do you need to do any sort of verification to 8 make sure that what currently exists is 9 representative of the population you're making the 10 estimate on behalf of? 11 A. Not in the definition of extrapolation. That's not 12 included in the definition. Statistically or 13 mathematically, there are probably things that you 14 need to do statistically or mathematically under 15 that mathematical definition, but if you're talking 16 about human behavior or human experience, it doesn't 17 suppose any prerequisite examination that these 18 things are representative of the entire sample. 19 It's based on your experience. It's based on your 20 knowledge of the field or your knowledge of that 21 particular human behavior. I was asked to 22 extrapolate and I think I did that. 23 Q. So if the only studies that existed based on the 24 prevalence of sexting among young adults were your 25 two studies of populations at Indiana-Purdue Fort</p>
<p style="text-align: right;">Page 167</p> <p>1 analysis. So in a meta analysis, you take research 2 that's been conducted in multiple places and you 3 compare what they've found. And you put all the 4 data into kind of one statistical -- you do one kind 5 of statistical method on all of the data, to see, 6 well, can we generalize these findings? Meta 7 analyses are usually prevalent in fields that are 8 non-emerging because you need a number of studies. 9 So at this point, my best estimates are based 10 on a small amount of studies that alone may or may 11 not be generalizable. But when you are looking at 12 them all together, then you see kind of a 13 convergence of evidence. So that's what I'd be 14 looking for at this point to make reasonable 15 estimates. 16 Q. Do you have to have a certain number of studies 17 before you can make an estimate? 18 A. I was asked to make an estimate. This is not 19 something that I typically do, make estimates about 20 prevalence. So from a statistical standpoint, I'm 21 not sure what that answer is. 22 Q. So you don't know -- you're not aware if there's 23 some sort of statistical point at which there is a 24 convergence of data? 25 A. No. But I was asked to extrapolate. And so there</p>	<p style="text-align: right;">Page 169</p> <p>1 Wayne and the Ferguson study of the college in the 2 southern United States, and you were asked to make 3 an extrapolation -- 4 A. To young adults? 5 Q. -- to young adults nationwide, you would have been 6 limited to those three studies. Correct? 7 A. You mean if I were asked to extrapolate, would I 8 have done so? I'm sorry. I don't understand your 9 question. 10 Q. So if there were only three studies examining the 11 prevalence of sexting among young adults, and they 12 were your 2012 study, your 2013 study, and the 13 Ferguson study -- 14 A. These are the only studies that I found that had 15 prevalence data, correct. 16 Q. Sure. 17 A. Yes. 18 Q. And you were asked to extrapolate to estimate the 19 percentage of young adults nationwide who have 20 engaged in sexting, would you have done so? 21 A. No. I don't think I would have. 22 Q. Why not? 23 A. Because we're talking about small groups. I need 24 more convergence of evidence. So I would like to 25 have seen other surveys that had been done, that did</p>

<p style="text-align: right;">Page 170</p> <p>1 not only include Hispanic women or did not only</p> <p>2 include undergraduates in relationships. So you're</p> <p>3 asking me to apply it broadly or generalize, I don't</p> <p>4 think I would have been able to do that.</p> <p>5 Q. Because those studies were limited to two particular</p> <p>6 universities?</p> <p>7 A. No. Because those studies were limited to</p> <p>8 particular samples that did not have the focus</p> <p>9 primarily of young adults. So what those studies</p> <p>10 serve as is just pieces. So three pieces of what</p> <p>11 could be a convergence of evidence.</p> <p>12 Q. Previously you said that an extrapolation is making</p> <p>13 an estimate based on the information that's</p> <p>14 available at the time the extrapolation is made. So</p> <p>15 if those three studies are the only ones that are in</p> <p>16 existence at the time you have to make the</p> <p>17 extrapolation, do you still say you can't do it?</p> <p>18 MS. BAUMGARDNER: Objection.</p> <p>19 A. I would say that you can technically do it. But</p> <p>20 you're asking me if I would do it? I think I said</p> <p>21 that I wouldn't. I'm not sure of my exact phrasing.</p> <p>22 But personally, I would not have extrapolated to the</p> <p>23 young adults U.S. census data based solely on three</p> <p>24 studies that may not -- may not represent the entire</p> <p>25 picture. It could, again, be under-inclusive,</p>	<p style="text-align: right;">Page 172</p> <p>1 Q. How do you cross the line from not having a</p> <p>2 convergence of evidence to having a convergence of</p> <p>3 evidence?</p> <p>4 MS. BAUMGARDNER: Objection. It assumes</p> <p>5 there's a line to cross.</p> <p>6 But go ahead.</p> <p>7 A. So how do you determine?</p> <p>8 Q. Yeah. What is the tipping point for there to be a</p> <p>9 convergence of evidence?</p> <p>10 A. For me, the tipping point that said that I should</p> <p>11 consider all of these -- I'm considering all of</p> <p>12 these findings. Even if it isn't generalizable to a</p> <p>13 entire population, them being generalizable to a</p> <p>14 segment of the population is contributing to the</p> <p>15 convergence.</p> <p>16 I took all of the studies that I have</p> <p>17 referenced in my report and looked at them</p> <p>18 cohesively and made my estimation based on what I</p> <p>19 felt they said collectively. And there wasn't a set</p> <p>20 number. I don't know -- I don't believe there's a</p> <p>21 set number. A convergence of evidence is a belief.</p> <p>22 So a set number tied to that belief would be really</p> <p>23 difficult for me to imagine existing. In any case,</p> <p>24 just taking a cohesive look at what exists.</p> <p>25 Q. So the convergence of evidence is any sort of</p>
<p style="text-align: right;">Page 171</p> <p>1 over-inclusive in its definition. I could be -- so</p> <p>2 you need convergence of evidence. I needed more</p> <p>3 studies than that. But theoretically, you could do</p> <p>4 anything you want.</p> <p>5 Q. So tell me more what you mean by convergence of</p> <p>6 evidence as you're using the term.</p> <p>7 A. So multiple sources that find something similar. So</p> <p>8 if I do feel like I have a sample that might be</p> <p>9 different, I might look for other -- the same result</p> <p>10 emerging in other samples. So it would say that,</p> <p>11 yes, my sample might be different, but that doesn't</p> <p>12 mean that the underlying behavior that I'm measuring</p> <p>13 is different.</p> <p>14 Q. And there's not -- is there a set number of findings</p> <p>15 that you need to get in order for there to be a</p> <p>16 convergence of estimates? I'm sorry. Convergence</p> <p>17 of -- what's the term again?</p> <p>18 A. Evidence.</p> <p>19 Q. Evidence. I'm sorry.</p> <p>20 A. I think you'd have that one.</p> <p>21 Q. Let's try that one again. Are there a certain</p> <p>22 number of findings, for you, that there need to be,</p> <p>23 of similar findings in order for there to be a</p> <p>24 convergence of evidence?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 173</p> <p>1 mathematical determination?</p> <p>2 A. No.</p> <p>3 Q. It's based on your comfort level?</p> <p>4 MS. BAUMGARDNER: Objection.</p> <p>5 A. It is based on my -- I don't think I said comfort.</p> <p>6 I think I said I took a cohesive look at the</p> <p>7 information that existed, and I made a extrapolation</p> <p>8 based on the information that existed.</p> <p>9 Q. The convergence of evidence is based on your belief</p> <p>10 I think was the word that you used. So it's based</p> <p>11 on your belief that there is a convergence?</p> <p>12 A. Yes. Based on my knowledge. And -- I mean, the</p> <p>13 belief I have would have been based on the prior</p> <p>14 knowledge that I have conducting social science</p> <p>15 research.</p> <p>16 MR. SWINTON: I think once again, we ran well</p> <p>17 over time. Should we take a lunch break?</p> <p>18 MS. BAUMGARDNER: Why don't we go off the</p> <p>19 record?</p> <p>20 (Whereupon, a recess was taken, after</p> <p>21 which the proceedings continued as</p> <p>22 follows:)</p> <p>23 BY MR. SWINTON:</p> <p>24 Q. So we're back on the record. Dr. Drouin, we just</p> <p>25 had a break for lunch. Did you speak with anybody</p>

<p style="text-align: right;">Page 174</p> <p>1 during that break?</p> <p>2 A. I spoke with Lorraine.</p> <p>3 Q. And did you discuss this case?</p> <p>4 A. No, I did not.</p> <p>5 Q. Okay. Did you discuss this deposition?</p> <p>6 A. No, I did not.</p> <p>7 Q. Okay. Before our break, we were looking at a few of</p> <p>8 the articles you referenced in your expert report.</p> <p>9 And one of the articles we looked at was an article</p> <p>10 by Christopher Ferguson and it's marked DX-5. I</p> <p>11 wonder if we can just look at that one more time,</p> <p>12 specifically the last page of the study. I think</p> <p>13 it's 243 at the top of the page there. The study --</p> <p>14 the paragraph is discussing the limitations of the</p> <p>15 study. And it says, "The current sample is</p> <p>16 convenience in nature and comprised mainly of</p> <p>17 Hispanic women." Correct?</p> <p>18 A. Yes.</p> <p>19 Q. What does it mean when it says the current sample is</p> <p>20 convenience in nature?</p> <p>21 A. The sample was convenient. It was a sample that he</p> <p>22 already had access to.</p> <p>23 Q. Okay. Is that a -- a sample being "convenience in</p> <p>24 nature," is that a term you're familiar with?</p> <p>25 A. A convenience sample, yes.</p>	<p style="text-align: right;">Page 176</p> <p>1 people affirmatively selected to be in your studies,</p> <p>2 among others.</p> <p>3 A. Then can you rephrase the question? Because I'm</p> <p>4 actually not sure what the question is anymore.</p> <p>5 Q. Okay. Actually, we can just move on.</p> <p>6 A. Okay. Sorry.</p> <p>7 Q. So you defined a sample of convenience as a group</p> <p>8 that you have access to, and you don't have to go</p> <p>9 outside to get participants. Outside of what?</p> <p>10 A. Outside of the group that you already have access</p> <p>11 to. It's a group that is conveniently available to</p> <p>12 you.</p> <p>13 Q. Okay. Was your -- the participants you used in your</p> <p>14 2012 study, which we have marked DX-3, was that a</p> <p>15 sample of convenience?</p> <p>16 A. Yes.</p> <p>17 Q. And the sample in your 2013 study, which we marked</p> <p>18 DX-4, was that a sample of convenience?</p> <p>19 A. Yes.</p> <p>20 Q. And do you agree with Ferguson that the sample size</p> <p>21 in his study, which we've marked DX-5, is a sample</p> <p>22 of convenience?</p> <p>23 A. The sample, not the sample size. Yes, the sample.</p> <p>24 Q. I'm sorry. So the sample size in the Ferguson</p> <p>25 study, marked DX-5, was a sample of convenience?</p>
<p style="text-align: right;">Page 175</p> <p>1 Q. And what's the definition of a convenience sample?</p> <p>2 Can you say it one more time, please.</p> <p>3 A. It would be a sample that you have access to in some</p> <p>4 way.</p> <p>5 Q. And "have access to," what do you mean?</p> <p>6 A. That you -- they're just a readily available sample.</p> <p>7 You didn't have to go outside to search for the</p> <p>8 sample. It's a sample that's available to you, a</p> <p>9 sample of convenience. You're not looking for</p> <p>10 certain types of demographic characteristics,</p> <p>11 purposely identify the study as such. You took</p> <p>12 people who were already available to you.</p> <p>13 Q. Okay. Do the participants have to volunteer for it</p> <p>14 to be a sample of convenience?</p> <p>15 A. Participation in psychological research, as far as I</p> <p>16 know, is always voluntary.</p> <p>17 Q. Okay.</p> <p>18 A. You can't be forced to participate. They had prison</p> <p>19 studies and things like that, that were . . .</p> <p>20 Q. And I'm sorry. Maybe that was a little</p> <p>21 inarticulate. I was thinking, for example, in your</p> <p>22 studies, people affirmatively selected to</p> <p>23 participate in your studies, rather than being</p> <p>24 randomly called, for example. So when I was saying</p> <p>25 volunteer, I was thinking of your studies, where</p>	<p style="text-align: right;">Page 177</p> <p>1 A. The sample was the sample of convenience, yes.</p> <p>2 Q. I keeping using the word "size," don't I.</p> <p>3 A. Yes.</p> <p>4 Q. Let me try that one more time, just to make sure I</p> <p>5 have it clear: The sample in the Ferguson study,</p> <p>6 which we've marked DX-5, was a sample of</p> <p>7 convenience?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Thank you.</p> <p>10 Let's go back to your expert report, which is</p> <p>11 marked DX-2, page 5. You state that because the</p> <p>12 cohort of students at the undergraduate institution</p> <p>13 looked at in your two articles, it is quite possible</p> <p>14 that that sample of students "is qualitatively</p> <p>15 different somehow from young adults in other parts</p> <p>16 of the country, it is prudent to compare our results</p> <p>17 with those studies involving larger samples of U.S.</p> <p>18 participants." Correct?</p> <p>19 A. Yes.</p> <p>20 Q. So you compared the results from your two studies</p> <p>21 with the results in studies involving larger</p> <p>22 samples. Correct?</p> <p>23 A. Yes.</p> <p>24 Q. And the studies that involve larger samples of the</p> <p>25 U.S. participants, how many were there?</p>

<p style="text-align: right;">Page 178</p> <p>1 A. The studies that I compared were three other 2 studies. 3 Q. And those are the studies by the Associated Press 4 and MTV, the Gordon-Messer study and the National 5 Campaign to Prevent Teen and Unplanned Pregnancy. 6 Correct? 7 A. That's correct. 8 Q. So these studies looked at results -- or used 9 samples, larger samples of U.S. participants. You 10 say that they consistently showed that approximately 11 one-third of young adults have been involved in 12 sexting involving sexually-explicit visual 13 depictions. Correct? 14 A. Yes. And I qualified that with descriptions of 15 sexting behaviors varied across studies. 16 Q. And you estimate, based on these studies as well as 17 the studies you conducted, that approximately 18 one-third of young adults have sent text messages 19 involving sexually-explicit visual depictions? 20 A. Yes. 21 Q. How did you arrive at the figure one-third? 22 A. When you look across these studies, you see that 23 it's about one-third of the sample that has 24 participated in this type of sexting activity, 25 however sexting was defined in those studies.</p>	<p style="text-align: right;">Page 180</p> <p>1 include people who are not in relationships but that 2 they could still be forwarding sexually-explicit 3 images for -- I just don't have this kind of data 4 reported in any of my studies -- I thought one-third 5 was a good approximation of the amount of -- or the 6 prevalence of this behavior. 7 Q. So you didn't adjust -- you didn't adjust the 8 findings of the percentage -- let me rephrase. 9 You didn't adjust the prevalence findings from 10 the three articles that used larger samples of U.S. 11 participants with the findings from your own 12 studies? 13 MS. BAUMGARDNER: Objection. 14 Go ahead. 15 A. I considered them all together. 16 Q. Okay. But you didn't mathematically adjust the 17 findings from the three studies using a national 18 sample with the findings from your own studies? 19 A. No. That type of mathematical computation would be 20 almost impossible to -- I wouldn't even know where 21 to begin. How would I average something that only 22 has a segment of their population? 23 Q. So it was based on your own judgment about what was 24 an appropriate estimation? 25 A. Yes.</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. So in your 2012 study, I believe you found that 54 2 percent of the participants had engaged in sending 3 sexually-explicit images. Correct? 4 A. Yes. 5 Q. So that one was 54 percent. Did you consider that 6 in arriving at the one-third estimate? 7 A. I did. 8 Q. So did you do any calculations in looking at these 9 studies to arrive at the one-third figure? 10 A. It wasn't a statistical estimate. I considered the 11 fact that most of my -- well, all of the 12 participants in my 2012 study were in committed 13 relationships. I also considered the fact that in 14 my 2013 study, the prevalence of sending these types 15 of sexually-explicit visual depictions were higher 16 in committed relationships, less high among other 17 types of studies. I thought then that my estimation 18 might be high and considering the one-third that was 19 prevalent in other studies and the types of trends I 20 was seeing in my other types of relationships. So 21 the lowest percentage, as you'll recall in Exhibit 22 DX-4, the lowest percentage for pictures or videos 23 was 37 percent. And that was for people who are in 24 relationships. 25 So if you consider as well that this does not</p>	<p style="text-align: right;">Page 181</p> <p>1 Q. When you use the word "approximately" -- you say, 2 "my opinion is that approximately one-third of young 3 adults have sent text messages." What do you mean 4 by "approximately"? 5 A. The actual percentage might be a little less; it 6 might be a little more. But if I had to come up 7 with a approximate percentage, it would be about 8 one-third. 9 Q. How much more could it be? 10 A. I would be very surprised if you find that in -- 11 because of the things that I saw about people in 12 committed relationships doing it more often than 13 people in those other types of relationships that 14 are less intimate, I'd be very surprised if the 15 national percentage were much higher than what I 16 found in my study. 17 Q. Is there a number? When you say approximately, it 18 could be a little bit more, it could be a little bit 19 less, is there -- for lack of a better word -- is 20 there a margin of error in that estimate? 21 A. Well, approximately includes a margin of error 22 because it's an approximation. So I don't have any 23 statistical margin of error. 24 Q. So there's no number range in which your estimate 25 falls?</p>

<p style="text-align: right;">Page 182</p> <p>1 A. No.</p> <p>2 Q. Is there any numerical meaning to the word</p> <p>3 "approximately" as you used it here in your expert</p> <p>4 report?</p> <p>5 A. There's a numerical meaning to one-third. One-third</p> <p>6 would be 33 percent.</p> <p>7 Q. Correct. But what about to the word</p> <p>8 "approximately." Is there any numerical value to</p> <p>9 that?</p> <p>10 A. No.</p> <p>11 Q. Okay. You said you hold this opinion to a</p> <p>12 reasonable degree of scientific certainty. Have you</p> <p>13 used the phrase "reasonable degree of scientific</p> <p>14 certainty" in any of your work previously?</p> <p>15 A. No.</p> <p>16 Q. Is it a phrase that's used in the field of</p> <p>17 psychology?</p> <p>18 A. No. Not that I know of.</p> <p>19 Q. What do you mean when you say "reasonable degree of</p> <p>20 scientific certainty" in your expert report?</p> <p>21 A. I mean that I've examined the information that I</p> <p>22 have, scientific information that was available to</p> <p>23 me to the best of my ability. And I believe what I</p> <p>24 have said and believe it to that, a reasonable</p> <p>25 degree. I'm not 100 percent certain that these are</p>	<p style="text-align: right;">Page 184</p> <p>1 Digital Abuse Study.</p> <p>2 A. Yes.</p> <p>3 Q. Have you seen this document before?</p> <p>4 A. Yes.</p> <p>5 Q. Where did you see it?</p> <p>6 A. I have downloaded this document onto my computer.</p> <p>7 Q. Did you see this document before you prepared your</p> <p>8 expert report?</p> <p>9 A. Yes.</p> <p>10 Q. How did you first become aware of this document?</p> <p>11 A. When I met the people from the Associated Press --</p> <p>12 no, before that. When we were given the compendium</p> <p>13 for the sexting roundtable.</p> <p>14 Q. And do you recall what year that was? It was --</p> <p>15 A. In, I think, 2011.</p> <p>16 Q. -- 2011. Correct?</p> <p>17 A. Yes.</p> <p>18 Q. Excuse me for interrupting. This study says it</p> <p>19 recruited respondents from KnowledgePanel, which is</p> <p>20 an online panel that is representative of the U.S.</p> <p>21 population. Are you familiar with KnowledgePanel?</p> <p>22 A. No.</p> <p>23 Q. Do you know what it is?</p> <p>24 A. It's an online panel.</p> <p>25 Q. Do you know anything about it, more than what's</p>
<p style="text-align: right;">Page 183</p> <p>1 the correct numbers, but I believe, based on my</p> <p>2 examination of the scientific evidence, this is a</p> <p>3 reasonable approximation.</p> <p>4 Q. So is your belief scientific?</p> <p>5 A. I think my approach to examining the evidence is</p> <p>6 scientific.</p> <p>7 Q. Is your estimate scientific?</p> <p>8 A. My estimate scientific. Scientific method involves</p> <p>9 looking at a phenomenon. And in this case the</p> <p>10 phenomenon would be looking at the pieces of</p> <p>11 evidence that exist and coming to some kind of</p> <p>12 conclusion. In lieu of some type of study that I</p> <p>13 could conduct that would explore this -- this</p> <p>14 question with scientific certainty, then I feel like</p> <p>15 I've used a scientific approach.</p> <p>16 Is that what you're asking?</p> <p>17 Q. No. I think I need to rephrase my question.</p> <p>18 How is your opinion -- what is the degree of --</p> <p>19 well, strike that.</p> <p>20 I'm going to shift gears.</p> <p>21 (Whereupon, Deposition Exhibit No. DX-6,</p> <p>22 A Thin Line, 2009 AP-MTV Digital Abuse</p> <p>23 Study, was marked for identification.)</p> <p>24 Q. I've handed you a document labeled DX-6. It's six</p> <p>25 pages long. It's titled A Thin Line, 2009 AP-MTV</p>	<p style="text-align: right;">Page 185</p> <p>1 described in the document?</p> <p>2 A. No. I know that some people use panels for their</p> <p>3 research. And I don't know the names of the</p> <p>4 particular panels that people use.</p> <p>5 Q. Okay. This study, on page 2, reports its findings.</p> <p>6 It says that "3 in 10 young people report having</p> <p>7 been involved in some type of naked sexting."</p> <p>8 Correct?</p> <p>9 A. Yes.</p> <p>10 Q. And that "1 in 10 has shared a naked image of</p> <p>11 themselves." Correct?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know what the difference is between "naked</p> <p>14 sexting" and "shared a naked image of oneself"?</p> <p>15 A. The way I interpret is naked sexting could be images</p> <p>16 sent of anyone, sent between -- sent somewhere. And</p> <p>17 then versus a picture of yourself, would be a naked</p> <p>18 image of yourself.</p> <p>19 Q. And is there -- are you aware if the study defines</p> <p>20 the phrase "naked sexting" in any way?</p> <p>21 A. I do not believe it does. I didn't see it.</p> <p>22 Although there may be other documents attached to</p> <p>23 this that I've not -- I'm not aware of. I don't</p> <p>24 remember.</p> <p>25 Q. So you don't recall any definition of naked sexting.</p>

<p style="text-align: right;">Page 186</p> <p>1 A. I don't -- I don't recall.</p> <p>2 Q. Okay. And the results for people reporting having</p> <p>3 been involved in some type of naked sexting was</p> <p>4 broken down between youth ages 14 to 17 and 18 to</p> <p>5 24. Correct?</p> <p>6 A. Yes.</p> <p>7 Q. And the youth ages 18 to 24 reported having been</p> <p>8 involved in naked sexting 33 percent of the time?</p> <p>9 A. That's correct.</p> <p>10 Q. Was that 33 percent figure, did that inform your 33</p> <p>11 percent estimate in your expert report?</p> <p>12 A. It helped to inform my 33 percent estimate, my</p> <p>13 approximate estimate.</p> <p>14 Q. And how did it help?</p> <p>15 A. Because it was a convergence of evidence between the</p> <p>16 multiple studies that it was about a third; higher</p> <p>17 in some, lower in some.</p> <p>18 Q. Do you recall which studies had lower?</p> <p>19 A. Well, Ferguson lower. Ferguson had only 20 percent.</p> <p>20 Without seeing the studies, I don't recall which had</p> <p>21 lower.</p> <p>22 Q. Okay. Going back to the methodology. I'm sorry to</p> <p>23 jump around. But back on page 1 under Methodology,</p> <p>24 the description says "KnowledgePanel members are</p> <p>25 randomly recruited by telephone through Random-Digit</p>	<p style="text-align: right;">Page 188</p> <p>1 you're as likely to end up in the group as you are</p> <p>2 not to end up in the group.</p> <p>3 Q. Okay. Is that the same as every person in the</p> <p>4 population having an equal chance being selected?</p> <p>5 A. Well, are they -- I don't know. Are you talking</p> <p>6 about --</p> <p>7 Q. And I'm not --</p> <p>8 A. -- you're just talking about random sampling. An</p> <p>9 equal chance of being selected? It has to be your</p> <p>10 target, it has to be your target audience, so -- of</p> <p>11 those people in your target audience, they should</p> <p>12 have an equal chance of being selected if you're</p> <p>13 doing a random sampling.</p> <p>14 Q. Okay. And what are the benefits of random sampling?</p> <p>15 A. Benefits of random sampling? Random sampling is</p> <p>16 mainly used for experiments. So the benefits of</p> <p>17 random sampling in an experiment is that you are --</p> <p>18 by saying this group was equally likely to end up as</p> <p>19 the other groups, it makes your comparisons more</p> <p>20 meaningful between someone who may undergo some type</p> <p>21 of manipulation and a group who isn't. Because you</p> <p>22 can say from the onset, they had an equal chance of</p> <p>23 being in either group.</p> <p>24 Q. Is it helpful when you're trying to make an estimate</p> <p>25 of prevalence?</p>
<p style="text-align: right;">Page 187</p> <p>1 Dial." Does this mean this sample was randomly</p> <p>2 selected?</p> <p>3 A. Randomly recruited may not be randomly selected. It</p> <p>4 says that it's representative of the U.S.</p> <p>5 population. Not knowing enough about</p> <p>6 KnowledgePanel's methods, I can't comment on whether</p> <p>7 or not they randomly selected those people. True</p> <p>8 random selection, I would have to kind of verify.</p> <p>9 Q. And what is true random sample selection?</p> <p>10 A. You are as likely to end up in one group as you are</p> <p>11 in another.</p> <p>12 Q. What's a simple random sample? Have you heard that</p> <p>13 phrase before?</p> <p>14 A. Where is it listed?</p> <p>15 Q. I'm sorry. It doesn't appear in the document. Have</p> <p>16 you heard of the phrase "simple random sample"</p> <p>17 before?</p> <p>18 A. A simple random sample, no.</p> <p>19 Q. Okay. So your definition of a random sample is</p> <p>20 every eligible person within the population has an</p> <p>21 equal chance of being selected for the study?</p> <p>22 MS. BAUMGARDNER: Objection.</p> <p>23 Go ahead.</p> <p>24 A. I don't know what they would say. But for me, a</p> <p>25 random sample -- random sampling method is that</p>	<p style="text-align: right;">Page 189</p> <p>1 A. To have random sampling, yes. But you have to know</p> <p>2 what population you're targeting.</p> <p>3 Q. Sure. So for example, if you were trying to target</p> <p>4 the population of Indiana, would it be helpful to</p> <p>5 have a random sample of -- strike that.</p> <p>6 If you were trying to have a study of the</p> <p>7 population of Indiana, what would be the best way to</p> <p>8 make that estimate when you were putting together a</p> <p>9 study?</p> <p>10 A. What are we estimating? You're saying a</p> <p>11 population -- the population?</p> <p>12 Q. If you were trying to estimate the prevalence of a</p> <p>13 characteristic within the population of Indiana,</p> <p>14 what would be the best way to select your sample in</p> <p>15 order to have the most accurate estimate possible?</p> <p>16 A. Oh. Well, that's different. That's not going to</p> <p>17 probably be random sampling. You're probably going</p> <p>18 to have -- want to have representative samples.</p> <p>19 Q. And what's representative sampling?</p> <p>20 A. But still random sampling within representative</p> <p>21 samples. So you would probably want people from all</p> <p>22 over. I mean, randomly -- if I were to do it</p> <p>23 randomly and I were trying to look at some</p> <p>24 characteristic in all of Indiana, I could end up</p> <p>25 with all people from Indianapolis, just randomly.</p>

<p style="text-align: right;">Page 190</p> <p>1 But that's different from a representative sample, 2 where you're saying that it represents a larger 3 area. 4 This -- okay. That's it. 5 Q. Okay. So can you explain a little bit more the 6 difference between a random sample and a 7 representative sample. 8 A. So a representative sample is chosen, selected 9 because they're representative of the population, 10 the target population. A random sample is just 11 assigning people randomly to groups. But sometimes 12 if you did a random sample, you could end up with 13 overrepresentation from one particular group. So a 14 representative sample is making sure that all groups 15 are included. And still, you could be random within 16 that representative group. 17 Q. So they're not mutually exclusive, in other words? 18 Random sampling and representative sampling? 19 A. No. 20 Q. So the first objective in trying to -- if I was 21 trying to put together a prevalence estimate of the 22 characteristics on behalf of the population of 23 Indiana, the first objective would be to get a 24 representative sample. And then the second 25 objective would be to randomly select people within</p>	<p style="text-align: right;">Page 192</p> <p>1 know that "random sampling" is a term that anyone 2 would . . . 3 Well, I guess it is. Random sampling. I don't 4 know. I don't know the difference between random 5 recruiting and random sampling. Could it be that 6 their randomly recruited sample is a random sample? 7 Yes. I just don't know the steps that they 8 followed. 9 Q. Okay. Did you consider their methodology and rely 10 on it to make your estimate of the prevalence of 11 sexting among young adults? 12 A. I did. 13 Q. And what specifically did you look for? 14 A. I looked for how many respondents that they asked, 15 where those respondents were, whether it was -- they 16 said it was representative. They said that they 17 used online methods to recruit something that was 18 random to make up the panel. 19 Q. Did you -- 20 A. So I considered all of those things. 21 Q. Did you look at the number of people who 22 participated from those who were sampled? 23 A. I did not. 24 Q. And earlier, I believe you said you weren't sure if 25 this -- if the sample in this MTV study was</p>
<p style="text-align: right;">Page 191</p> <p>1 that representative sample. Is that correct? 2 A. Yes. Based on the characteristic that you're going 3 to be testing. So your representative sample might 4 be different based on the characteristic you're 5 examining. 6 Q. So let's look specifically at the MTV study marked 7 DX-6. 8 A. Yes. 9 Q. Are you aware if they used a representative sample 10 for purposes of this study? 11 A. It says that they did. An only online panel that is 12 representative of the U.S. population. 13 Q. Okay. 14 A. This is what they claim. 15 Q. And are you aware if they used a random sample of 16 that population? 17 A. It says that the panels were randomly recruited for 18 participation in the panel. And so they used both 19 random and representative sampling. 20 Q. Is random recruitment the same as random sampling? 21 A. I don't -- I don't do random recruitment. I don't 22 really know what that would be. But I think if 23 they're using the term "random sampling," they know 24 what they've -- oh. They used the term "randomly 25 recruited." Or is that a random sample? I don't</p>	<p style="text-align: right;">Page 193</p> <p>1 representative of the country. Is that correct? 2 A. When did I say -- what did you say that I said? 3 Q. I believe that you said that the sample that was 4 used in this study, the MTV study, wasn't -- you 5 weren't sure if that was representative of the U.S. 6 population. Is that correct? 7 A. I don't -- I don't think I said that. 8 Q. Okay. I might be mis-remembering. So I just wanted 9 to check. 10 A. Yeah. I don't think I said that. 11 Q. Okay. Do you think that the sample population from 12 the MTV study representative of the U.S. population? 13 A. I think it's better than many of the other studies 14 that would have been claiming to be representative, 15 or that I had to make a conclusion based on. Of the 16 studies that exist, I think it is fairly 17 representative, according to the methodology that 18 they describe. 19 Q. And what does fairly well mean? 20 A. Fairly well? Reasonably well. 21 Q. Are there weaknesses that you can identify in how 22 representative the sample is? 23 A. I don't -- not knowing what their exact sample 24 demographics were, I don't know. There are 25 weaknesses to every study.</p>

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<p style="text-align: right;">Page 194</p> <p>1 Q. Would you have to know those weaknesses before you</p> <p>2 could make a determination about how representative</p> <p>3 the sample is?</p> <p>4 A. Not only would I -- I think I would like to see the</p> <p>5 exact methodology that they used. But as well, one</p> <p>6 of the limitations right now with regard to this is</p> <p>7 not knowing what a representative sample actually</p> <p>8 is. What do you need to include for a sample to be</p> <p>9 representative when you're looking at this issue?</p> <p>10 Q. So in other words, you cannot say that that MTV</p> <p>11 study sample population is representative of the</p> <p>12 U.S. population?</p> <p>13 A. I cannot say, no, definitively if it is.</p> <p>14 (Whereupon, Deposition Exhibit No. DX-7,</p> <p>15 Sexting Among Young Adults, was marked</p> <p>16 for identification.)</p> <p>17 Q. Okay. Let's move on to DX-7. I'll hand this to</p> <p>18 you.</p> <p>19 A. Thank you.</p> <p>20 Q. This is a article, it's six pages and it's called</p> <p>21 "Sexting Among Young Adults" written by Deborah</p> <p>22 Gordon-Messer, Jose Arturo Bauermeister, Alison</p> <p>23 Grodzinski, and Marc Zimmerman. Have you seen this</p> <p>24 document before?</p> <p>25 A. I have, yes.</p>	<p style="text-align: right;">Page 196</p> <p>1 A. Usually the person who's listed as the primary</p> <p>2 author is someone who played the largest role in the</p> <p>3 study. This is in psychological research. In other</p> <p>4 disciplines, it's not the same. But it could have</p> <p>5 been they conceptualized the idea. It could have</p> <p>6 been they carried out the bulk of the research. It</p> <p>7 could have been they wrote most of the article. The</p> <p>8 APA has pretty liberal interpretations about what</p> <p>9 the work is that you do, but it usually represents a</p> <p>10 significant amount of work on the topic.</p> <p>11 Q. So are authors listed in decreasing order of</p> <p>12 contributions to the article?</p> <p>13 A. Often, yes.</p> <p>14 Q. So the second person, for example, contributed less</p> <p>15 than the first person listed?</p> <p>16 A. Less, that's not always the case. I see that he is</p> <p>17 the corresponding author, Bauermeister, so the</p> <p>18 corresponding author is often someone who's</p> <p>19 contributed significantly to an article as well.</p> <p>20 Q. Okay.</p> <p>21 A. So contributed significantly is a very hard thing to</p> <p>22 describe. I have -- I have a first-authored</p> <p>23 publication that -- it was someone else's idea,</p> <p>24 their research idea, but I did most of the work. So</p> <p>25 "significant contribution" is a hard term to apply</p>
<p style="text-align: right;">Page 195</p> <p>1 Q. Where did you see it?</p> <p>2 A. I have it downloaded on my computer.</p> <p>3 Q. And were you aware of this article before you wrote</p> <p>4 your expert report?</p> <p>5 A. Yes.</p> <p>6 Q. How did you become aware of it?</p> <p>7 A. I think I saw this in a -- I don't know. Sometimes</p> <p>8 things come up that are related to articles that I</p> <p>9 have published or looked for. And I think that's</p> <p>10 probably how I saw it.</p> <p>11 Q. Do you remember when you first saw it?</p> <p>12 A. No.</p> <p>13 Q. Was it in 2013?</p> <p>14 A. I don't remember.</p> <p>15 Q. Before, we were talking about authors of these of</p> <p>16 scholarly articles, and you said the first person</p> <p>17 listed is usually the principal author?</p> <p>18 A. Yes.</p> <p>19 Q. So in this case is Deborah Gordon-Messer the</p> <p>20 principal author?</p> <p>21 A. Yes.</p> <p>22 Q. Is there any significance to the order in which the</p> <p>23 authors are listed?</p> <p>24 A. Usually, yes.</p> <p>25 Q. What's the significance?</p>	<p style="text-align: right;">Page 197</p> <p>1 to this, social science.</p> <p>2 Q. Does the primary author, is that person the one who</p> <p>3 actually writes the article?</p> <p>4 A. Not necessarily.</p> <p>5 Q. Okay. Is that commonly the case?</p> <p>6 A. Is it commonly the case? I would say -- what do you</p> <p>7 mean by common?</p> <p>8 Q. Is it common in your experience that the primary</p> <p>9 author listed on an article is the person that wrote</p> <p>10 the article?</p> <p>11 A. Yeah, but I asked you what you meant by common.</p> <p>12 Q. Is it typically the case in your experience that --</p> <p>13 A. Okay. Is it typical? I would say that many people</p> <p>14 contribute to the writing of an article. Sometimes</p> <p>15 first authors don't do any of the writing of the</p> <p>16 article. So -- I don't know about common.</p> <p>17 In my experience as a first author, I've done</p> <p>18 the majority of the writing. I know someone who</p> <p>19 does research in literacy who has hired a writer for</p> <p>20 their papers. So they do none of the writing and</p> <p>21 they're first author. So I know of both cases. So</p> <p>22 common is a really difficult term for me too.</p> <p>23 Q. Have you ever been the principal author and not</p> <p>24 written parts of an article?</p> <p>25 A. No. But I'm a strong writer.</p>

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<p style="text-align: right;">Page 198</p> <p>1 Q. Okay. I want to take a look at the second page of 2 this document. I want to look at Methods, which 3 starts at the bottom of the first column and carries 4 over to the top of the second column on the page. 5 It says that "participants were recruited using a 6 Web-based respondent-driven sampling strategy." And 7 it goes on to discuss how 22 seeds were selected 8 based on race and regionality to create networks. 9 And then each seed essentially recommended other 10 people to participate in the study. And everybody 11 who participated was given a gift card. Are you 12 familiar with this sampling practice? 13 A. Yes. It's called the snowball method, colloquially. 14 The snowball method of recruitment. 15 Q. The snowball method is the same as respondent-driven 16 sampling? 17 A. I think it's probably the same -- it has the same 18 end product or the same process. 19 Q. Okay. 20 A. You get an original group and you have them reach 21 out to others that they know. 22 Q. And why is it used, in your experience? 23 A. It's usually used to reach parts of the population 24 that you might not have access to otherwise, who 25 might have a particular thing that you're interested</p>	<p style="text-align: right;">Page 200</p> <p>1 wrote my report. 2 Q. And what particularly did do you look at when you 3 were considering the definitions? 4 A. Whether they provided a definition or did they say 5 sexually explicit. 6 Q. So this one does not use the term "sexually 7 explicit." How would that have factored into your 8 analysis? 9 A. They used the term "sexually suggestive, nude, or 10 nearly nude." So that is also a phrase that has 11 been used to described the past, nude or nearly 12 nude. 13 Q. And is this the same definition that you use when 14 you say "sexually depictions" in your expert report? 15 A. Visual depictions. My -- it's broader. It includes 16 however people have defined it or had their 17 participants identify with sexually explicit. 18 Q. The definition you use in your expert report is 19 broader than the definition in DX-7? 20 A. Yes. Because you don't have to be nude or nearly 21 nude to be involved with -- I guess one of the 22 persons could be, but -- for example, in -- I could 23 imagine oral sex where you could be fully clothed, 24 practically, and still be having an oral sex 25 depiction. So that should be included as well. So</p>
<p style="text-align: right;">Page 199</p> <p>1 in studying. 2 Q. Have you ever used the snowball method? 3 A. No. 4 Q. So you're aware of it based on other articles you've 5 read? 6 A. Yes. 7 Q. Okay. Are you aware of -- or do you know if a 8 certain number of referrals need to be made in order 9 to obtain a representative sample of the target 10 population? 11 A. I'm not aware. 12 Q. I want to also look at this same page we were on, 13 page 2, Measures, under the subheading Sexting. It 14 says that participants were asked two questions: 15 Whether they had ever sexted using their cell phones 16 and whether they had ever received a sext. 17 Parenthetically, sext is defined as sent a 18 sexually-suggestive nude or nearly nude photo or 19 video of themselves to someone else. 20 Are you aware of any further definition of 21 sexting used in this study? 22 A. I'm not aware of any other. 23 Q. Did you consider the definition when you were 24 relying on this article for your expert report? 25 A. Yes. I considered all of the definitions when I</p>	<p style="text-align: right;">Page 201</p> <p>1 I think this is narrow. 2 (Whereupon, Deposition Exhibit No. DX-8, 3 Sex and Tech, Results From a Survey of 4 Teens and Young Adults, was marked for 5 identification.) 6 Q. Okay. Let's move on to DX-8. This is a 19-page 7 document called "Sex and Tech, Results From a Survey 8 of Teens and Young Adults." It looks like it's from 9 The National Campaign to Prevent Teen and Unplanned 10 Pregnancy. Have you seen this document before? 11 A. Yes. 12 Q. Where did you see it? 13 A. I have it downloaded on my computer. 14 Q. And when did you first become aware of this 15 document? 16 A. When I first started doing sexting research, so 17 2009, '10. 18 Q. And you relied on this document in forming your 19 expert report. Correct? 20 A. I referenced this document, yes. 21 Q. Did you rely on it? 22 A. What do you mean by rely? 23 Q. Did it play a role in you forming your estimate of 24 the percentage of young adults who have sent 25 sexually-explicit visual depictions --</p>

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<p style="text-align: right;">Page 202</p> <p>1 A. Yes.</p> <p>2 Q. -- in the United States? Okay. What particularly</p> <p>3 did you look at in this study? Do you recall?</p> <p>4 A. I have read the whole study. I have looked at</p> <p>5 everything in this study. But to form the report, I</p> <p>6 remember looking at the prevalence data, the ages.</p> <p>7 I remember looking at how they conducted their</p> <p>8 research. And I think I looked at -- 'cause they</p> <p>9 actually have their survey, so I think I looked at</p> <p>10 the actual questionnaire. But I looked at it</p> <p>11 selectively.</p> <p>12 Q. And what do you mean by selectively?</p> <p>13 A. I was looking for certain things. But I can't</p> <p>14 remember now what I was looking at. Whenever</p> <p>15 there's a survey attached to methods, I usually look</p> <p>16 at the methods that are related to -- or the survey</p> <p>17 parts that are related to the methods.</p> <p>18 Q. Okay. If I could call your attention to page 5 of</p> <p>19 the study.</p> <p>20 A. Yes.</p> <p>21 Q. There's a heading Definition of Terms. So here,</p> <p>22 they provide a definition of sexually-suggestive</p> <p>23 pictures/video. And the definition is "semi-nude or</p> <p>24 nude personal pictures/video taken of oneself and</p> <p>25 not found on the Internet, or received from a</p>	<p style="text-align: right;">Page 204</p> <p>1 20 to 26. Correct?</p> <p>2 A. Yes.</p> <p>3 Q. And it further says that respondents "were selected</p> <p>4 from among those who have volunteered to participate</p> <p>5 in TRU's online surveys." Correct? It's the next</p> <p>6 paragraph down.</p> <p>7 A. Yes.</p> <p>8 Q. Do you know what TRU's online surveys are?</p> <p>9 A. I suppose they're surveys that TRU, this research</p> <p>10 company, puts out as available to people who would</p> <p>11 like to respond to surveys.</p> <p>12 Q. Have you ever heard of TRU before?</p> <p>13 A. No. I don't know of any particular -- I don't use</p> <p>14 this in my research.</p> <p>15 Q. Okay. So this sampling method involved a random</p> <p>16 sample of the volunteers -- of people who have</p> <p>17 volunteered to participate in TRU's online surveys.</p> <p>18 Correct?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know if this -- if the sampling population</p> <p>21 was representative of the national population?</p> <p>22 A. No. I wouldn't know. But they say they stratified</p> <p>23 them according to U.S. census data they weighted to</p> <p>24 reflect the demographic composition.</p> <p>25 Q. And what does that mean? What does stratified mean?</p>
<p style="text-align: right;">Page 203</p> <p>1 stranger, (like spam), etc." Correct?</p> <p>2 A. Yes.</p> <p>3 Q. Is this the same -- is the definition of</p> <p>4 sexually-suggestive pictures and video the same as</p> <p>5 the definition of sexually-explicit depictions that</p> <p>6 you used in your expert report?</p> <p>7 A. What is in my expert report would be inclusive of</p> <p>8 this, yes.</p> <p>9 Q. So the definition in your expert report of sexually</p> <p>10 explicit encompasses all of the definitions from the</p> <p>11 studies you found?</p> <p>12 A. Yes. It's not a definition I provided, but the</p> <p>13 term, yes, encompasses it.</p> <p>14 Q. Encompasses all of the material --</p> <p>15 A. Various ways that people have defined it.</p> <p>16 Q. So all of the material defined as sexually explicit</p> <p>17 or -- let me strike that.</p> <p>18 Of the material respondents to surveys have</p> <p>19 identified as being sexually explicit or some</p> <p>20 analogous term you included, is encompassed by the</p> <p>21 words "sexually explicit" in your expert report?</p> <p>22 A. Yes.</p> <p>23 Q. Also on page 5, under the heading about the survey,</p> <p>24 it discusses the number of respondents. And they</p> <p>25 broke it in two categories, ages 13 to 19 and ages</p>	<p style="text-align: right;">Page 205</p> <p>1 A. I suppose that they put them into different groups</p> <p>2 based on what they thought the demographic</p> <p>3 representation would be of that respondent.</p> <p>4 Q. And what does weighted mean?</p> <p>5 A. I don't know what they did to weight this.</p> <p>6 Q. Okay. So you don't know, in other words, that this</p> <p>7 sample is representative of the national population?</p> <p>8 A. No, I don't know if it is.</p> <p>9 Q. The last sentence in this paragraph says</p> <p>10 "Respondents do not constitute a probability</p> <p>11 sample." What does that mean?</p> <p>12 A. It's difficult to estimate probability of this</p> <p>13 occurring in the real world based on their -- what</p> <p>14 they -- their sampling techniques.</p> <p>15 Q. What do you mean by "this occurring?"</p> <p>16 A. Of whatever it is that they're measuring. In this</p> <p>17 case, sexting.</p> <p>18 Q. So in other words, is this saying that the</p> <p>19 results -- or the findings from this survey do not</p> <p>20 necessarily reflect the percentages of people who</p> <p>21 send sexually-suggestive pictures nationwide?</p> <p>22 A. They're saying it's not that kind of sample. That</p> <p>23 was not the design of this study. I believe that</p> <p>24 they would say that they think this is reflective</p> <p>25 based on what was written in this report, reflective</p>

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<p style="text-align: right;">Page 206</p> <p>1 of a national sample.</p> <p>2 Q. So what's -- tell me again what a probability sample</p> <p>3 is?</p> <p>4 A. Probability sample is a type of sample that I think</p> <p>5 would represent the probability of this occurring</p> <p>6 within the entire United States, I guess, is what</p> <p>7 they mean.</p> <p>8 Q. And what do you -- I guess I don't understand. What</p> <p>9 do you mean by probability of this occurring?</p> <p>10 A. Of sexting. Of whatever it is that they're -- it's</p> <p>11 not only sexting, but . . .</p> <p>12 Q. Of the behavior --</p> <p>13 A. Yeah. Whatever.</p> <p>14 Q. -- being studied?</p> <p>15 A. Yeah. The term "probability sample," I don't use</p> <p>16 that term. I'm not sure but I'm surmising that what</p> <p>17 they mean is probability of being able to generalize</p> <p>18 it to the national -- that some samples are created</p> <p>19 specifically for that. But they didn't create this</p> <p>20 sample, I guess, for that reason. But they weighted</p> <p>21 it, I believe, so that they thought it reflected</p> <p>22 what they thought was the national trend.</p> <p>23 Q. So the sentence, "Respondents do not constitute a</p> <p>24 probability sample" means that the sample was not</p> <p>25 designed to reflect the national population?</p>	<p style="text-align: right;">Page 208</p> <p>1 that the respondents were stratified and the data</p> <p>2 was weighted. Correct?</p> <p>3 A. It was significant to me that -- yes, that they</p> <p>4 stratified it.</p> <p>5 Q. And do you know --</p> <p>6 A. And they weighted it to reflect demographics, yes.</p> <p>7 Demographic composition of these young adults. It</p> <p>8 was significant to me that it was a national sample</p> <p>9 as well.</p> <p>10 Q. Do you know what they did to stratify?</p> <p>11 A. No, I don't.</p> <p>12 Q. And do you know how they weighted it?</p> <p>13 A. No, I don't.</p> <p>14 Q. So you didn't verify the stratification?</p> <p>15 A. No, I did not.</p> <p>16 Q. And did you verify the weighting of the data?</p> <p>17 A. No, I did not.</p> <p>18 Q. So the only thing you know about that is what is</p> <p>19 written in this one sentence on page 5?</p> <p>20 A. Yes.</p> <p>21 Q. The only thing you know about the stratification and</p> <p>22 the weighting is what is written on page 5?</p> <p>23 A. Yes.</p> <p>24 Q. The next paragraph says for additional data, you can</p> <p>25 visit The National Campaign website or contact The</p>
<p style="text-align: right;">Page 207</p> <p>1 MS. BAUMGARDNER: Objection.</p> <p>2 A. I don't know what they meant when they wrote that.</p> <p>3 Q. Did you consider that sentence when you were looking</p> <p>4 at this study and writing your expert report?</p> <p>5 A. The term "probability sample" is not one that I use</p> <p>6 in my research or I'm not familiar with. I read</p> <p>7 everything. I assumed that it was what I'm</p> <p>8 explaining to you, that they didn't choose this</p> <p>9 sample specifically to estimate, you know, the</p> <p>10 probability of this occurring. But they had done</p> <p>11 other things in their methods. And that's what I</p> <p>12 considered when I was writing my report, the other</p> <p>13 methods that they used.</p> <p>14 Q. Did you look up the term "probability sample"?</p> <p>15 A. I think I did. And I don't remember what it said.</p> <p>16 Q. So you were reassured by the fact that the</p> <p>17 respondents were stratified and weighted. Correct?</p> <p>18 And using this information to estimate behavior at a</p> <p>19 national population level?</p> <p>20 MS. BAUMGARDNER: Objection.</p> <p>21 Go ahead.</p> <p>22 A. I did not use this study alone to make an estimate</p> <p>23 of a national population.</p> <p>24 Q. But in considering this study, as part of the</p> <p>25 studies you considered, it was significant to you</p>	<p style="text-align: right;">Page 209</p> <p>1 National Campaign at a 202 area code phone number.</p> <p>2 Did you visit the website?</p> <p>3 A. I did.</p> <p>4 Q. Did you look for additional data?</p> <p>5 A. Yes, I did.</p> <p>6 Q. What did you find?</p> <p>7 A. I found nothing related to the stratification in my</p> <p>8 search.</p> <p>9 Q. Okay.</p> <p>10 A. Or the weighting or the probability sample or the</p> <p>11 details.</p> <p>12 Q. Was there additional data available about this</p> <p>13 study?</p> <p>14 A. There was additional data available mostly geared</p> <p>15 towards information about -- about the broader</p> <p>16 topic. So preventing teen and unplanned pregnancy.</p> <p>17 This is -- it was a bigger website. It didn't lead</p> <p>18 you directly to more information about the study.</p> <p>19 It brought you to kind of a larger scope of the</p> <p>20 study -- a larger scope of the organization.</p> <p>21 Q. But you did find additional data about the study at</p> <p>22 that website?</p> <p>23 A. No. I didn't find any additional data that I used</p> <p>24 to inform my report.</p> <p>25 Q. Do you contact The National Campaign at that</p>

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<p style="text-align: right;">Page 210</p> <p>1 telephone number?</p> <p>2 A. No, I didn't.</p> <p>3 Q. Okay. If you could turn in this document to page</p> <p>4 11. And I believe these are the results from</p> <p>5 certain questions asked of the study participants.</p> <p>6 There was a question, the first one listed -- these</p> <p>7 are the numbers -- strike that.</p> <p>8 The question was, "Which of any of the</p> <p>9 following have you personally ever done? Please</p> <p>10 mark all that apply."</p> <p>11 The percentage of young adults who had sent a</p> <p>12 nude or semi-nude picture or video of themselves to</p> <p>13 someone else was 32 percent. Correct?</p> <p>14 A. Yes.</p> <p>15 Q. And the percentage of teens who had done the same</p> <p>16 was 19 percent?</p> <p>17 A. Yes.</p> <p>18 Q. Teens is defined for the purposes of the study as 13</p> <p>19 to 19 year olds. Correct?</p> <p>20 A. Yes.</p> <p>21 Q. And young adults is defined as 20 to 26 year olds.</p> <p>22 Correct?</p> <p>23 A. Yes.</p> <p>24 Q. And if we look at the net behavior of people who had</p> <p>25 either -- who had sent and/or posted a nude or</p>	<p style="text-align: right;">Page 212</p> <p>1 A. That's right.</p> <p>2 Q. But there is some overlap?</p> <p>3 A. Yes.</p> <p>4 Q. There's two years worth of overlap?</p> <p>5 A. Yes.</p> <p>6 Q. And the young adult category from this study, DX-8,</p> <p>7 the young adults age range is 20 to 26. And that</p> <p>8 does not perfectly align with your definition of</p> <p>9 young adults. Correct?</p> <p>10 A. That's correct.</p> <p>11 Q. There's four years of age overlap. Correct?</p> <p>12 A. Four years of age overlap?</p> <p>13 Q. In the ranges.</p> <p>14 A. Yes.</p> <p>15 Q. Yet the percentage for young adults is 33 percent,</p> <p>16 which is the same as the percentage you estimate in</p> <p>17 your expert report. Correct?</p> <p>18 A. Yes. Approximately one-third, yes.</p> <p>19 Q. Approximately. Did you -- and there's a 13 percent</p> <p>20 difference between teens and young adults in DX-8.</p> <p>21 Did you take these age ranges into account in trying</p> <p>22 to make an estimate on behalf of young adults ages</p> <p>23 18 to 24, for purposes of your expert survey?</p> <p>24 A. Make account of what?</p> <p>25 Q. Of the fact that there wasn't a perfect overlap</p>
<p style="text-align: right;">Page 211</p> <p>1 semi-nude picture or video, the net values are</p> <p>2 looking at the sending of these images across</p> <p>3 multiple media. Right?</p> <p>4 A. Yes.</p> <p>5 Q. And so the net percentages of young adults is 33</p> <p>6 percent. Correct?</p> <p>7 A. Yes.</p> <p>8 Q. And the net percentage of teens is 20 percent.</p> <p>9 Correct?</p> <p>10 A. Yes.</p> <p>11 Q. And they're using the same age ranges, 13 to 19 year</p> <p>12 olds for teens and 20 to 26 year olds for young</p> <p>13 adults. Correct?</p> <p>14 A. Yes.</p> <p>15 Q. Your estimate in your expert report was 18 to 24</p> <p>16 year olds. Correct?</p> <p>17 A. Yes.</p> <p>18 Q. And your estimate was that 33 percent of them had</p> <p>19 transmitted a sexually-explicit depiction. Correct?</p> <p>20 A. Approximately.</p> <p>21 Q. Approximately. So when you were faced with --</p> <p>22 strike that.</p> <p>23 The teen category, the ages 13 to 19, do not</p> <p>24 perfectly align with your category of young adults,</p> <p>25 which is 18 to 24. Correct?</p>	<p style="text-align: right;">Page 213</p> <p>1 between the age ranges in the study and the age</p> <p>2 ranges you were making an estimate on behalf of?</p> <p>3 A. I considered it greatly, yes.</p> <p>4 Q. And what did you consider?</p> <p>5 A. I considered the fact that findings for youth</p> <p>6 sexting are usually lower. So that even if they had</p> <p>7 a sample that was perfectly distributed from -- in</p> <p>8 that 13 to 19 age group, you probably had lower</p> <p>9 rates reported among the younger kids, if it were</p> <p>10 consistent with the other data that comes out on</p> <p>11 youth sexting. And that the higher age ranges would</p> <p>12 likely be more reflective of the young adults which</p> <p>13 is -- would be within the typical age ranges that we</p> <p>14 see in the other studies that look at people who are</p> <p>15 18 to 24 or 18 to 26.</p> <p>16 Q. But the age range you were looking at was 18 to 24</p> <p>17 --</p> <p>18 A. Yes.</p> <p>19 Q. -- correct? Do you believe that as people get</p> <p>20 older, they're more likely -- strike that.</p> <p>21 Have you found that as people get older they're</p> <p>22 more likely to send a sexually-explicit picture or</p> <p>23 video?</p> <p>24 MS. BAUMGARDNER: Objection.</p> <p>25 A. I have not studied this in, like, the senior</p>

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<p style="text-align: right;">Page 214</p> <p>1 population. I mean, it hasn't even been done. So I</p> <p>2 don't think I have enough knowledge to make that</p> <p>3 decision.</p> <p>4 Q. But you believe that there's a higher prevalence of</p> <p>5 sexting in the young adult population versus the</p> <p>6 teenage population?</p> <p>7 A. Based on early teens. Based on the existing</p> <p>8 evidence that we have or the existing information</p> <p>9 that we have, I would estimate yes.</p> <p>10 Q. Did you consider that the -- did you consider the</p> <p>11 possibility that the young adults ages 24 to 26</p> <p>12 might be sexting more frequently than young adults</p> <p>13 ages 20 to 24?</p> <p>14 A. Well, in my original sample, I had people up to age</p> <p>15 36, and I did age-related analyses. And I don't</p> <p>16 remember finding anything significantly different</p> <p>17 with my age-related analyses. There wouldn't be</p> <p>18 anything that, as a developmental psychologist, I</p> <p>19 would qualitatively distinguish a 24- from a 25-year</p> <p>20 old. There'd be no reason for me to.</p> <p>21 Q. Was there any mathematical calculation that went</p> <p>22 into your use of the responses in DX-8 for purposes</p> <p>23 of your expert report?</p> <p>24 A. No. In a mathematical adjustment, no.</p> <p>25 Q. So it was based on your own judgment of what was</p>	<p style="text-align: right;">Page 216</p> <p>1 generalized. And because of that, you can't do a</p> <p>2 purely statistical estimation.</p> <p>3 Q. Did you give the prevalence rates that you were</p> <p>4 looking at or considering any sort of weight in --</p> <p>5 any sort of mathematical weight --</p> <p>6 A. No. Because --</p> <p>7 Q. -- in arriving at your 33 percent?</p> <p>8 A. No. Because the mathematical weight, I wouldn't</p> <p>9 even know where to begin to try to assign a</p> <p>10 mathematical weight to the populations that may not</p> <p>11 have been representative. I wouldn't know how to</p> <p>12 weight them. We don't have enough information on</p> <p>13 sexting to weight them.</p> <p>14 Q. Keeping math aside, putting math aside --</p> <p>15 A. Okay.</p> <p>16 Q. -- did you rely more heavily on the studies that</p> <p>17 were making prevalence estimates on behalf of the</p> <p>18 national population? Did you rely on those studies</p> <p>19 more than the studies that were just looking at a</p> <p>20 university population?</p> <p>21 A. I would say I relied on them both equally. I</p> <p>22 considered them both. I mentioned them all because</p> <p>23 I considered them all in my estimation.</p> <p>24 Q. In your expert report, page 5, you said, "it is</p> <p>25 prudent to compare our results" and I believe there,</p>
<p style="text-align: right;">Page 215</p> <p>1 appropriate?</p> <p>2 A. Of what was the appropriate method to make the</p> <p>3 estimate?</p> <p>4 Q. Of whether the 33 percent response rate for young</p> <p>5 adult ages 20 to 26 was -- strike that.</p> <p>6 Isn't it true that it was your own judgment</p> <p>7 that the fact that the age ranges in DX-8 don't</p> <p>8 perfectly correlate to the age range you used in</p> <p>9 your expert study --</p> <p>10 Let me come back to this question.</p> <p>11 Were there any statistical methods you used in</p> <p>12 arriving at your 33 percent estimate in your expert</p> <p>13 report?</p> <p>14 A. No. I didn't use statistical methods.</p> <p>15 Q. That estimate was based on your judgment based on</p> <p>16 your expertise in the field of sexting among young</p> <p>17 adults?</p> <p>18 A. Based on the information that I looked at to make</p> <p>19 the report, yes.</p> <p>20 Q. Did you add up all of the prevalence rates from the</p> <p>21 data you were given and then average them to arrive</p> <p>22 at 33 percent?</p> <p>23 A. No, I didn't. Because it's not that</p> <p>24 straightforward. Because some of these studies are</p> <p>25 examining a segment of the population that can't be</p>	<p style="text-align: right;">Page 217</p> <p>1 you're referring to the studies you performed in</p> <p>2 2012 and 2013, "with those studies involving larger</p> <p>3 samples of U.S. participants."</p> <p>4 A. That's right.</p> <p>5 Q. What comparisons did you make?</p> <p>6 A. Comparisons? I compared the prevalence data that I</p> <p>7 had in my samples to the prevalence data I was</p> <p>8 seeing in the other studies.</p> <p>9 Q. And you just looked at the numerical values?</p> <p>10 A. I looked at the numerical values, but I took into</p> <p>11 account the other things -- their populations. So</p> <p>12 whether they were sampling college students or</p> <p>13 people who were in relationships or not. I mean, if</p> <p>14 that data were available. So I looked at their</p> <p>15 methodologies and their prevalence data. But to</p> <p>16 make my estimation, it was the prevalence data.</p> <p>17 Q. And you just noted what the prevalence data was for</p> <p>18 all the different studies and then just determined</p> <p>19 that 33 percent was the right estimation?</p> <p>20 A. I was asked to extrapolate. So extrapolation</p> <p>21 doesn't always mean right. It just means you're</p> <p>22 asked to make a judgment based on the information</p> <p>23 given. And I made a judgment of a approximate</p> <p>24 number based on all of the information. And that</p> <p>25 judgment was about one-third.</p>

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<p style="text-align: right;">Page 218</p> <p>1 Q. And not all of the prevalence rates were of the same 2 numerical value. Correct? 3 A. Numerical value. I'm sorry. I don't understand the 4 question. 5 Q. Not all the prevalence rates were the same amount. 6 A. No. 7 Q. Correct? 8 A. Yes. 9 Q. For example, in your 2012 study -- 10 A. Yes. 11 Q. -- was 54 percent? 12 A. Yes. 13 Q. Several of them were 33 percent. Correct? 14 A. Yes. 15 Q. Was the fact that multiple prevalence rates were 33 16 percent, did that contribute to your estimate that 17 33 percent of youth -- of young adults across the 18 United States have sent sexually-explicit images? 19 A. Yes. The fact that most of the studies are around 20 one-third. And I think you asked me to quantify, 21 well, in how many percentages are we near one-third. 22 I guess I'm getting liberal. Because we have a low 23 of 20 percent, as a high, 54 percent, so I think 33 24 percent seemed to me neither to be an 25 underestimation or an overestimation.</p>	<p style="text-align: right;">Page 220</p> <p>1 sorry. How much closer would I have to be -- 2 Q. Sure. 3 A. -- in terms of . . . 4 Q. The findings you considered range from 20 percent to 5 54 percent prevalence rates. 6 A. Okay. 7 Q. You're saying that this falls somewhere close to 33 8 percent, approximately 33 percent. 9 A. Yes. 10 Q. How far above 33 percent can we go to still be -- to 11 still call that estimation approximate, to still be 12 within your range of approximation? 13 A. I don't know. I mean, I don't have any precise 14 mathematical calculations that went into this. So I 15 can't give you numerical data. 16 Q. Okay. But you could give me 33 percent? 17 A. I said approximately. Approximately one-third, yes. 18 Approximately 33 percent. 19 Q. You don't have any meaning to attach to the word 20 "approximately"? 21 A. Not at this time. Again, there are so many things 22 that prohibit me from making a precise estimation of 23 this. 24 Q. Because sexting is an emerging field of study? 25 MS. BAUMGARDNER: Objection.</p>
<p style="text-align: right;">Page 219</p> <p>1 Q. So the range we're dealing with is 20 percent to 54 2 percent? 3 A. The range that I considered, yes, was 20 percent to 4 54 percent. 5 Q. So your estimation has to fall somewhere within 6 there based on what you considered? 7 A. Yes. Extrapolating from that information, my 8 estimate would fall somewhere in between there. 9 Q. So when you say approximately one-third of young 10 adults have sent sexually-explicit visual 11 depictions, does that approximately encompass the 12 range 20 percent to 54 percent? 13 A. No, it doesn't encompass that range. I'm going to 14 say that it's closer to one-third. Because 20 15 percent to 54 percent are not inclusive samples. So 16 I considered these, but I think the real prevalence 17 data would be somewhere in between those. That's my 18 opinion. 19 Q. And how many closer would you have to be to get to 20 approximately 33 percent, based on your reading of 21 these -- based on the findings you looked at? 22 A. How much closer would I have to be to what? 23 Q. To get into your range of approximate? 24 MS. BAUMGARDNER: Objection. 25 A. I actually don't understand the question. I'm</p>	<p style="text-align: right;">Page 221</p> <p>1 Go ahead. 2 A. Because there are so many variables that need to be 3 considered. As I said, we haven't even -- I don't 4 even know what a representative sample would look 5 like when we're considering this behavior. I don't 6 even know what the question is when considering this 7 behavior. The researchers haven't even defined the 8 term. So based on my existing knowledge, it would 9 be very difficult to give precise measurements. 10 Because of the multiple things that we've discussed 11 today. 12 Q. So is approximately one-third, is that a precise 13 measurement? 14 A. No. 15 Q. Is 10.2 million young adults who have sent text 16 messages involving sexually-explicit visual 17 depictions, is that a precise measurement? 18 A. No. It's an estimation. 19 Q. Okay. Is that a precise estimation? 20 A. No. It's a approximate estimation. 21 Q. Okay. And what did you mean by approximately when 22 you say approximately 10.2 million young adults have 23 sent text messages involving sexually-explicit 24 visual depictions? 25 A. Well, this is easy. Because I needed only apply my</p>

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<p style="text-align: right;">Page 222</p> <p>1 approximation of one-third to the census data. So</p> <p>2 it's the same term.</p> <p>3 Q. It's the same term that you used when you said</p> <p>4 approximately one-third of young adults have sent</p> <p>5 text messages?</p> <p>6 A. It is. And not text messages.</p> <p>7 Q. Excuse me. Have sent text messages involving</p> <p>8 sexually-explicit visual depictions.</p> <p>9 A. Yes.</p> <p>10 Q. And we can't give any sort of number value to</p> <p>11 approximately. Correct? I'm sorry. You cannot</p> <p>12 give any sort of number value to approximately.</p> <p>13 Correct?</p> <p>14 MS. BAUMGARDNER: In what context?</p> <p>15 Q. In the context of the estimates you're making.</p> <p>16 A. Somewhere around one-third. No, it's not an exact</p> <p>17 mathematical computation.</p> <p>18 Q. But you said you hold this opinion to a reasonable</p> <p>19 degree of scientific certainty. If you can't give</p> <p>20 any further numbers other than the approximate</p> <p>21 percentages, how are you offering this opinion to a</p> <p>22 reasonable degree of scientific certainty?</p> <p>23 A. Because the scientific process is looking at a</p> <p>24 phenomenon or observable instances, forming a</p> <p>25 conclusion about those, gathering information about</p>	<p style="text-align: right;">Page 224</p> <p>1 the different studies you reference?</p> <p>2 A. The prevalence data as well as their methods, yes.</p> <p>3 Q. And what were the other steps in that process? In</p> <p>4 the scientific process you just described.</p> <p>5 A. Looking at -- having a set of observations,</p> <p>6 gathering other information that you need, and</p> <p>7 coming to some conclusion based on the set of</p> <p>8 observations. Usually you have a hypothesis that</p> <p>9 drove your scientific inquiry.</p> <p>10 Q. What was your hypothesis here?</p> <p>11 A. My hypothesis was that sexting would be more than</p> <p>12 zero in young adults.</p> <p>13 Q. So your hypothesis was that at least one young adult</p> <p>14 somewhere in the United States had sent a</p> <p>15 sexually-explicit picture or video to someone else?</p> <p>16</p> <p>17 A. Probably greater than that, but I wouldn't want to</p> <p>18 make any precises estimates.</p> <p>19 Q. Okay. So your hypothesis was that more than nobody</p> <p>20 had sent a sexually-explicit visual depiction?</p> <p>21 A. Essentially, because this wasn't a scientific study.</p> <p>22 I was asked to write a report. So hypotheses drive</p> <p>23 scientific studies, but based on my experiences, I</p> <p>24 expected to see, yes, greater than zero.</p> <p>25 Q. But I thought you just -- so this was not a</p>
<p style="text-align: right;">Page 223</p> <p>1 those, and then coming up with what you see as the</p> <p>2 explanation for this set of observations. That's</p> <p>3 the scientific process. So my scientific certainty</p> <p>4 is not mathematical -- which if you're in math, you</p> <p>5 have different types of certainty. In the</p> <p>6 scientific process, certainty is determined in a</p> <p>7 different way.</p> <p>8 Q. And the information you were gathering was the</p> <p>9 prevalence rates from various studies. Correct?</p> <p>10 A. For the purpose of this report?</p> <p>11 Q. Yes.</p> <p>12 A. Yes. I look at prevalence rates, among other</p> <p>13 things, yes.</p> <p>14 Q. And so when you say "reasonable degree of scientific</p> <p>15 certainty," you're saying that -- you mean that I</p> <p>16 went through -- I put this information through some</p> <p>17 sort of scientific process in order to reach my</p> <p>18 estimation?</p> <p>19 MS. BAUMGARDNER: Objection.</p> <p>20 A. I am saying that I used a scientific method where</p> <p>21 you have a set of observations, you have some</p> <p>22 hypothesis about these observations, you examine</p> <p>23 what information you have, and you come to some</p> <p>24 conclusion based on these.</p> <p>25 Q. And the observations were the prevalence data from</p>	<p style="text-align: right;">Page 225</p> <p>1 scientific report. Correct?</p> <p>2 A. No.</p> <p>3 Q. Your expert report was not a scientific report?</p> <p>4 A. That's not what I said. I said this was not a</p> <p>5 scientific study.</p> <p>6 Q. Okay. So your expert report was not a scientific</p> <p>7 study?</p> <p>8 A. That's correct.</p> <p>9 Q. Okay. Yet when you said you hold your estimations</p> <p>10 made in the report to a reasonable degree of</p> <p>11 scientific certainty, what does that mean?</p> <p>12 A. It's the scientific process that I referred to</p> <p>13 earlier. As a scientist, you look at a set of</p> <p>14 observations, you evaluate those observation, you</p> <p>15 draw conclusions based on those observations. So</p> <p>16 it's part of the scientific process.</p> <p>17 Q. So the scientific process is different than a</p> <p>18 scientific study?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. What evaluations did you make of the</p> <p>21 observations you used -- you had for your scientific</p> <p>22 process?</p> <p>23 A. Well, one evaluation was whether or not the data</p> <p>24 from the samples of college students might be</p> <p>25 applicable to a broader spectrum of young adults.</p>

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<p style="text-align: right;">Page 226</p> <p>1 That would be an example.</p> <p>2 Q. And another one would be whether age ranges that</p> <p>3 don't precisely match up with the age range you were</p> <p>4 making an estimate on behalf of, how to translate</p> <p>5 that data to your age range. Correct?</p> <p>6 A. I don't know that I approached that with a</p> <p>7 scientific method, but that might be something that</p> <p>8 one might consider in the scientific examination of</p> <p>9 information.</p> <p>10 Q. And what did you do to make evaluations in your</p> <p>11 scientific process to get this estimate?</p> <p>12 A. I considered all of the evidence. I considered all</p> <p>13 of the information that I knew of. And I looked at</p> <p>14 these observations and made a estimate based on</p> <p>15 these multiple observations.</p> <p>16 Q. Did you give any report referenced -- strike that.</p> <p>17 Did you find any report referenced -- strike that.</p> <p>18 Did you rely on any report referenced more</p> <p>19 heavily than other reports?</p> <p>20 A. I considered them all collectively.</p> <p>21 Q. Did you do any sort of weighting of the prevalence</p> <p>22 data that you had from these reports?</p> <p>23 A. No, I did not do any weighting.</p> <p>24 Q. Do you weight the prevalence data from studies that</p> <p>25 were looking at a national sample any differently</p>	<p style="text-align: right;">Page 228</p> <p>1 A. And it seemed to me, the term "sexually-explicit</p> <p>2 visual depictions" would include everything that was</p> <p>3 included in these studies.</p> <p>4 Q. Did you have that definition in mind -- did you have</p> <p>5 any definition of sexually-explicit visual</p> <p>6 depictions in mind before you looked at all the</p> <p>7 studies for purposes of this expert report?</p> <p>8 A. Yes. Non-text sexually-explicit images, visual</p> <p>9 depictions. Just anything that was non-text.</p> <p>10 Q. Okay.</p> <p>11 A. And inclusive of the things that we delineated</p> <p>12 earlier.</p> <p>13 Q. So as long as another study -- strike that.</p> <p>14 In other words, you incorporated all the</p> <p>15 definitions that were used in all the studies that</p> <p>16 you looked at of sexually explicit or whatever the</p> <p>17 analogous terms was used?</p> <p>18 A. I didn't incorporate those definitions. I don't</p> <p>19 know that I understand what you mean by incorporate</p> <p>20 the definitions. However, any study that delineated</p> <p>21 text from visual depictions, if they had visual</p> <p>22 depictions in some way named in their study, then I</p> <p>23 considered it as part of this, yes -- those</p> <p>24 prevalence data.</p> <p>25 Q. So the words "sexually explicit" in your expert</p>
<p style="text-align: right;">Page 227</p> <p>1 than the prevalence data that were collected using</p> <p>2 just a university sample?</p> <p>3 A. By weighting, are you meaning mathematically?</p> <p>4 Q. Yes.</p> <p>5 A. No.</p> <p>6 Q. What about non-mathematically?</p> <p>7 A. I took the sample into consideration. So yes,</p> <p>8 weighting in my mind, yes.</p> <p>9 Q. And you did you compare the prevalence rates from</p> <p>10 different studies?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And did you look at the definitions of</p> <p>13 sexually explicit or an analogous term that was in</p> <p>14 the studies when you were making your comparison?</p> <p>15 A. Yes, I did.</p> <p>16 Q. And what did you consider when you were making that</p> <p>17 comparison about the definitions?</p> <p>18 A. The principal thing that I considered was whether or</p> <p>19 not they had included text in their definition of</p> <p>20 sexting or sexually-explicit sexting.</p> <p>21 Q. Okay. Did you consider anything else?</p> <p>22 A. No. Because as I say, the definition of sexting has</p> <p>23 not yet really been defined. It hasn't been cited</p> <p>24 upon. So I took their own interpretations.</p> <p>25 Q. When you were --</p>	<p style="text-align: right;">Page 229</p> <p>1 report has a very broad meaning then?</p> <p>2 A. Sexually explicit. As broad as the interpretations</p> <p>3 of the respondents who were responding to that, yes.</p> <p>4 Q. So as long as a respondent in any of the studies you</p> <p>5 looked at believed a message or image sent was</p> <p>6 sexually explicit, than that image is included in</p> <p>7 your definition of sexually explicit in your expert</p> <p>8 report?</p> <p>9 A. In considering the methodologies though, some had</p> <p>10 more narrow definitions. So very few of the studies</p> <p>11 that I referenced had only sexually explicit. So it</p> <p>12 would have been interpreted as liberally as you are</p> <p>13 stating here.</p> <p>14 Q. But you didn't exclude any findings of sexually</p> <p>15 explicit or any analogous -- strike that.</p> <p>16 You didn't exclude any response data based on</p> <p>17 the definition of sexually explicit or the analogous</p> <p>18 term?</p> <p>19 A. As long as it was not text, no, I did not.</p> <p>20 Q. As long as it was an image, a sexual image in some</p> <p>21 way, it was included in your estimate for</p> <p>22 sexually-explicit visual depictions?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. I wanted to look at DX-4, if you could. This</p> <p>25 is your study from 2013, on page 2, under Content of</p>

<p style="text-align: right;">Page 230</p> <p>1 CMC-S. And CMC-S, I believe, stands for 2 computer-mediated communication-sexual? 3 A. Mm-hmm. 4 Q. This paragraph describes the inconsistency in 5 definition of content of sex messages. And towards 6 the end, you say, "Unfortunately, this inconsistency 7 in terminology makes comparability between previous 8 studies almost impossible." 9 A. Yes. That was what someone else had stated, 10 Lounsbury and colleagues. 11 Q. Okay. So that was attributed to somebody else? It 12 reads in here as if it's -- do you agree with the 13 statement? 14 A. This is what Lounsbury stated, and I think 15 comparability between studies is difficult. 16 Q. Is it almost impossible? 17 A. When you're looking at -- I would say it makes it 18 very difficult. 19 Q. So do you agree with Lounsbury's statement? 20 A. And I don't know exactly what Lounsbury's words 21 were. I don't recall what his exact words were. 22 Q. Okay. 23 A. But if I'm attributing it to Lounsbury and 24 colleagues, then they must have said something akin 25 to this.</p>	<p style="text-align: right;">Page 232</p> <p>1 say is that if we really want to see -- 'cause 2 sexting is a broad term. If we want to focus in on 3 particular sexual behaviors, CMC-S, we need to focus 4 in on particular acts. But it is difficult to make 5 estimations when they don't have consistent 6 definitions. However, the sexually -- 7 sexually-explicit visual depictions is a broader 8 term than is used in most studies. So it 9 encompasses what we're -- what other researchers 10 have measured. 11 So yes, it's difficult to make comparisons when 12 I want to say what is the prevalence of -- what's 13 the prevalence of nude sexting? I'm not exactly 14 sure, because some people haven't asked about nude. 15 They haven't delineated it like that. However, in 16 the term that I used, it's broad enough. So that in 17 this report, I'm not establishing comparability 18 across studies. I'm including studies that included 19 sexually-explicit visual depictions in their 20 definition of sexting. 21 Q. Although, you say in your expert report on page 5, 22 "it is prudent to compare our results," meaning the 23 2012 Drouin study and the 2013 Drouin study, "with 24 those studies involving larger samples of U.S. 25 participants."</p>
<p style="text-align: right;">Page 231</p> <p>1 Q. Okay. And this sentence appears in your study. 2 Correct? 3 A. Yes. 4 Q. So it's something you cited and you didn't indicate 5 any disagreement with it in the study? 6 A. No. 7 Q. Okay. So if the inconsistency in terminology of the 8 content of sex messages makes comparability very 9 difficult, how can you compare the prevalence rates 10 from the studies you were looking at in your expert 11 report? 12 A. It was very difficult. 13 Q. And you were able to overcome the difficulty? 14 A. Yes. When asked to make an estimate, I looked at 15 the information that was there. This is a -- again, 16 this is an emerging field. So emerging fields often 17 have limitations. This is one of the limitations of 18 the field at the moment. 19 So -- because we've had inconsistent results. 20 The fact is, no matter how people have asked it, 21 they've come up with relatively consistent data. So 22 if we consider that, then it also means that our -- 23 it may not matter how we define it, as long as we're 24 defining it liberally. 25 And more importantly, I think -- what I then</p>	<p style="text-align: right;">Page 233</p> <p>1 A. Yes. 2 Q. So you were comparing results of studies. Correct? 3 A. Yes. Under this broad definition. 4 Q. Okay. So even though -- and what were you trying to 5 accomplish by comparing the results? 6 A. By comparing the results. To see whether or not 7 what is found in national samples is similar to what 8 the smaller studies with undergraduates have found. 9 Q. Even though none of the studies use the same 10 definition of sexually explicit? 11 A. I don't think "none" is the correct term. 12 Q. Even though not all the studies use the same 13 definition of sexually explicit? 14 A. Exactly. But all of the studies, as we mentioned 15 before, the definitions that they've used were 16 included within my term of sexually-explicit visual 17 depictions. 18 Q. Your term sexually explicit is the most broad, is 19 broader than any of the ones -- any of the 20 definitions used in the studies? 21 A. I believe so. 22 Q. Does it include any behavior not captured in the 23 studies? 24 A. Sexually explicit. It could. 25 Q. It could. So could your -- the phrase sexually</p>

<p style="text-align: right;">Page 234</p> <p>1 explicit as used in your expert report could be</p> <p>2 broader or could include -- strike that. Let me</p> <p>3 start over.</p> <p>4 The phrase "sexually-explicit visual</p> <p>5 depictions," as used in your expert report, could</p> <p>6 include conduct that wasn't reported in the data</p> <p>7 from any of the studies you referenced?</p> <p>8 MS. BAUMGARDNER: Objection.</p> <p>9 A. Could it be broader. My recent study asked about</p> <p>10 forwarding images. So many people ask about myself</p> <p>11 or sent picture of yourself. So in that case what I</p> <p>12 used was broader, to talk about forwarding. It's</p> <p>13 not included here in these prevalence statistics,</p> <p>14 but it could perhaps be included in prevalence</p> <p>15 statistics. So the number of people who would also</p> <p>16 then forward images could be an additional category</p> <p>17 of people to include in these studies.</p> <p>18 Q. Were the number of people forwarding images included</p> <p>19 in your approximation of one-third of young adults?</p> <p>20 A. No.</p> <p>21 Q. Okay. Or in your approximation of 10.2 million</p> <p>22 young adults?</p> <p>23 A. No. Because I don't actually have -- I didn't</p> <p>24 compute -- although you do have a sort of prevalence</p> <p>25 data because you see how many people have forwarded,</p>	<p style="text-align: right;">Page 236</p> <p>1 of one-third of young adults?</p> <p>2 A. There was no mathematical calculation that I used.</p> <p>3 It was just -- I had a convergence of evidence from</p> <p>4 one study to the next. The fact that I found the</p> <p>5 same type of results, even though I made the</p> <p>6 definition of sexually explicit more explicit, gave</p> <p>7 me a convergence of evidence for those two studies.</p> <p>8 So the definition, I thought, from the second study,</p> <p>9 got at more what I wrote in my report, which gave</p> <p>10 further validation to my methods and my findings</p> <p>11 from my study one.</p> <p>12 Q. Was there a convergence of data in making your</p> <p>13 estimate that approximately one-third of young</p> <p>14 adults have sent sexually-explicit text messages?</p> <p>15 A. Yes, I believe there was.</p> <p>16 Q. And what was that convergence of data?</p> <p>17 A. Convergence of evidence?</p> <p>18 Q. Convergence of evidence, I'm sorry.</p> <p>19 A. The convergence of evidence were that you had</p> <p>20 several studies conducted by different people in</p> <p>21 different places who found a similar percentage.</p> <p>22 Q. And you had six studies total. Correct?</p> <p>23 A. I had six studies total, yes. I believe.</p> <p>24 Q. And there was one study at a southern university,</p> <p>25 two studies that took place at Indiana-Purdue Fort</p>
<p style="text-align: right;">Page 235</p> <p>1 the sample was small.</p> <p>2 Q. So if we used your definition of sexually explicit</p> <p>3 to mean any type of depiction that a person would</p> <p>4 interpret as being sexually explicit, it could be</p> <p>5 very broad. Correct?</p> <p>6 A. Yeah. But that's not what I was -- that's not what</p> <p>7 I was referring to here. So if you look at the</p> <p>8 studies that are listed, they usually provide a much</p> <p>9 narrower definition. So sexually-explicit visual</p> <p>10 depictions -- and I think all of the studies mention</p> <p>11 something aside from my initial study, which I</p> <p>12 didn't rely upon heavily. I relied more on my</p> <p>13 latter study where I actually did have them</p> <p>14 delineate the types of visual content that they were</p> <p>15 sending. So I think all of them mentioned something</p> <p>16 about nude or nearly nude or something that would</p> <p>17 have been more restrictive than that.</p> <p>18 Q. Okay. You just said that you relied on your 2013</p> <p>19 study more heavily than your 2012 study. Correct?</p> <p>20 A. In terms of the definition.</p> <p>21 Q. Okay. So you did rely on certain studies more</p> <p>22 heavily than others?</p> <p>23 A. In terms of the definition, I considered that</p> <p>24 definition a stronger weight.</p> <p>25 Q. And how did that factor in to reaching your estimate</p>	<p style="text-align: right;">Page 237</p> <p>1 Wayne, and then three studies that were making</p> <p>2 estimates about the national population. Correct?</p> <p>3 A. Yes.</p> <p>4 Q. And why did you determine that this was a</p> <p>5 convergence of evidence?</p> <p>6 A. Because it was -- a convergence means that you see</p> <p>7 things all saying about the same thing. And I did</p> <p>8 see them saying all about the same thing. There was</p> <p>9 none, in this group of studies, that was drastically</p> <p>10 different than the other in their findings.</p> <p>11 Q. And the prevalence rate varied from 20 percent to 54</p> <p>12 percent. Correct?</p> <p>13 A. Yes.</p> <p>14 Q. And that wasn't drastically different?</p> <p>15 A. You're talking about different populations.</p> <p>16 Those -- for the Hispanic women, it was a different</p> <p>17 population for my sample of people who were in</p> <p>18 relationships [sic]. So I don't know. So those</p> <p>19 studies would not have been -- they were considered</p> <p>20 with the idea that they were special populations.</p> <p>21 Q. Okay. So the most important studies in making an</p> <p>22 estimate about young adults nationwide who have sent</p> <p>23 sexually-explicit visual depictions were the three</p> <p>24 studies that tried to sample -- tried to have a</p> <p>25 representative sample of the national population.</p>

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<p style="text-align: right;">Page 238</p> <p>1 Correct?</p> <p>2 MS. BAUMGARDNER: Objection.</p> <p>3 A. I believe that they're all important.</p> <p>4 Q. But three were very -- three of those studies were</p> <p>5 very provincial in their sample populations.</p> <p>6 Correct?</p> <p>7 MS. BAUMGARDNER: Objection.</p> <p>8 A. "Provincial" is not a word that we use. So you want</p> <p>9 to . . .</p> <p>10 Q. Three of those studies were limited to universities</p> <p>11 in particular regions of the country. Correct?</p> <p>12 A. Three of those studies were limited to regions in</p> <p>13 the country. That doesn't mean that they were any</p> <p>14 less considered.</p> <p>15 Q. Okay. And they had prevalence rates that were at</p> <p>16 the far reaches of the range of the studies you</p> <p>17 considered. Correct?</p> <p>18 A. Yes.</p> <p>19 Q. The 20 percent came from the study of the southern</p> <p>20 university, and the 54 percent prevalence rate came</p> <p>21 from the study of the IPFW students. Correct?</p> <p>22 A. That's right.</p> <p>23 Q. And it was the studies that were purporting to have</p> <p>24 samples representative of the national population</p> <p>25 that were all clustered around 33 percent. Correct?</p>	<p style="text-align: right;">Page 240</p> <p>1 one-third. So that's not, to me, a mathematical</p> <p>2 computation.</p> <p>3 Q. Did you do that computation when you made your 33</p> <p>4 percent estimate in your expert report?</p> <p>5 A. I didn't actually do a computation. I did not do a</p> <p>6 statistical computation, which I told you before</p> <p>7 would be very difficult to do because you're not</p> <p>8 comparing apples to apples.</p> <p>9 So what I did was say, okay. I'm looking and I</p> <p>10 have about 37 percent to 54 percent across</p> <p>11 relationship types. They are finding about 20</p> <p>12 percent. If these two university samples are at the</p> <p>13 extremes, or even somewhere in the middle, and you</p> <p>14 take the midpoint somewhere, then it's probably</p> <p>15 about a third.</p> <p>16 Q. And you didn't perform any sort of computations to</p> <p>17 get at the midpoint?</p> <p>18 A. I did not.</p> <p>19 Q. Okay. So you guessed to get at the midpoint?</p> <p>20 MS. BAUMGARDNER: Objection.</p> <p>21 A. I did not guess. I looked at the midpoint. I</p> <p>22 looked at the averages in other studies, and I</p> <p>23 considered the ranges, and I made an estimate based</p> <p>24 on those.</p> <p>25 Q. And you didn't weight any of the data from the</p>
<p style="text-align: right;">Page 239</p> <p>1 A. That's correct.</p> <p>2 Q. So are you saying that when you made an estimate of</p> <p>3 33 percent, those national samples that all had</p> <p>4 findings around 33 percent, didn't play a more</p> <p>5 important role in your estimation than the studies</p> <p>6 that looked at the university population?</p> <p>7 A. Well, if you average 20 percent and 54 percent, if</p> <p>8 you're doing it from a purely mathematical</p> <p>9 standpoint, then -- or 50 percent because my more</p> <p>10 recent studies looked at it in a broader sample --</p> <p>11 and we have something closer to about 45 percent,</p> <p>12 probably, average across the different relationship</p> <p>13 types -- we're still converging at about one-third.</p> <p>14 Q. So I thought you had said earlier that you didn't do</p> <p>15 any mathematical calculations in reaching 33</p> <p>16 percent?</p> <p>17 A. I didn't. I just did this for you.</p> <p>18 Q. Okay. So the mathematical calculation does help you</p> <p>19 get to 33 percent and is part of your support for</p> <p>20 your estimate?</p> <p>21 MS. BAUMGARDNER: Objection.</p> <p>22 A. I'm saying to you that the upper range of</p> <p>23 percentages and the lower range of percentages would</p> <p>24 still, if you looked at them, would be -- and you</p> <p>25 looked at some middle point, you'd still be around</p>	<p style="text-align: right;">Page 241</p> <p>1 studies?</p> <p>2 A. How would I have weighted it?</p> <p>3 Q. Even -- you didn't weight it in any sort of</p> <p>4 statistical way?</p> <p>5 A. No.</p> <p>6 Q. You didn't weight it in any other way in your mind</p> <p>7 about giving these studies that were purporting to</p> <p>8 have a sample representative of the national</p> <p>9 population greater weight in forming your estimate?</p> <p>10 A. I considered them all in forming my estimate.</p> <p>11 Q. But you didn't rely on one any more heavily than</p> <p>12 other?</p> <p>13 A. I considered them all. I considered them all</p> <p>14 equally when I was forming my estimate.</p> <p>15 Q. You considered them all equally?</p> <p>16 A. I considered them all.</p> <p>17 Q. So the fact that you arrived at 33 percent, which is</p> <p>18 the same number that the studies that purport to</p> <p>19 have a national sample size -- a nationally</p> <p>20 representative sample size you used is just a</p> <p>21 coincidence?</p> <p>22 MS. BAUMGARDNER: Objection.</p> <p>23 A. When you look at numbers, you don't have to do a</p> <p>24 mathematical computation to make an estimate.</p> <p>25 That's what I did. I made an estimate looking at a</p>

<p style="text-align: right;">Page 242</p> <p>1 group of prevalence data with consideration for</p> <p>2 their methodologies and their different samples.</p> <p>3 Q. If the three studies purporting to have a nationally</p> <p>4 representative sample size had been at 36 percent,</p> <p>5 do you think it's more likely your estimate would</p> <p>6 have been at 36 percent also?</p> <p>7 A. I would have estimated about one-third.</p> <p>8 Q. Okay. Based on what?</p> <p>9 A. Based on all of the studies that I had read. It</p> <p>10 doesn't bring it down substantially, but --</p> <p>11 3 percent may mean something to Gallup. I think</p> <p>12 when they make estimates, it's plus or minus 2</p> <p>13 percent. But 3 percentage points to me is not</p> <p>14 something that would make a huge difference in my</p> <p>15 estimates.</p> <p>16 Q. Is there a certain number of percentage points that</p> <p>17 would make a difference in your estimates?</p> <p>18 A. If the other national samples had shown 45, then</p> <p>19 yes, it would have probably made a difference in my</p> <p>20 estimates.</p> <p>21 Q. How would it have --</p> <p>22 A. Because then the convergence of evidence would have</p> <p>23 seemed as if it were converging somewhere more</p> <p>24 around the percentage of 40s than in the 30s, with</p> <p>25 consideration for all of the studies. And I would</p>	<p style="text-align: right;">Page 244</p> <p>1 study?</p> <p>2 A. No.</p> <p>3 Q. Have you used scientific methods in other studies?</p> <p>4 A. Have I used methods? scientific methods? Yes.</p> <p>5 Q. But you don't ever say that you hold your findings</p> <p>6 with a reasonable degree of scientific certainty?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. That's not a typical phrase in the social sciences.</p> <p>10 Q. Why did you use it here?</p> <p>11 A. It seemed to be a appropriate legal term.</p> <p>12 Q. How did you find out about that legal term?</p> <p>13 A. I don't remember. I don't know. Maybe it was</p> <p>14 communicated to me. I don't remember.</p> <p>15 Q. Who would it have been communicated by?</p> <p>16 A. If anyone, I think it would have been probably the</p> <p>17 lawyers that I spoke to before writing the report.</p> <p>18 I really don't remember exactly how that term</p> <p>19 emerged.</p> <p>20 Q. So you hadn't heard the term before you wrote the</p> <p>21 expert report?</p> <p>22 A. I don't know if I had heard the term or not. I</p> <p>23 don't remember.</p> <p>24 Q. But you had never used the term until you wrote your</p> <p>25 expert report?</p>
<p style="text-align: right;">Page 243</p> <p>1 have wondered about the Ferguson sample, if there</p> <p>2 was something very unique about that population.</p> <p>3 Q. So the fact that there was a cluster of studies</p> <p>4 around 33 percent was significant in you reaching</p> <p>5 your estimate of 33 percent?</p> <p>6 A. No. It's not the cluster of studies. It's the</p> <p>7 consideration of those studies with consideration</p> <p>8 for the ends of those studies -- my studies and</p> <p>9 Ferguson's study as well.</p> <p>10 Q. And the way that you considered that was just left</p> <p>11 up to your own judgment, based on the sample size --</p> <p>12 the sample populations used in the studies and the</p> <p>13 methodologies that they employed?</p> <p>14 A. Extrapolation is based on judgment of a scientific</p> <p>15 nature, I believe, in this instance of this report.</p> <p>16 Q. And how was your judgment scientific?</p> <p>17 A. In that I examined the pieces of evidence that I</p> <p>18 had, and I made a judgment based on those pieces --</p> <p>19 those observable pieces of evidence.</p> <p>20 Q. And that's what makes you hold the opinion to a</p> <p>21 reasonable degree of scientific certainty?</p> <p>22 A. Because I observed -- because I employed a</p> <p>23 scientific method to look at these. Yes, I used my</p> <p>24 scientific judgment.</p> <p>25 Q. And you've never used that term previously in a</p>	<p style="text-align: right;">Page 245</p> <p>1 A. I don't believe I had ever used the term.</p> <p>2 Q. Okay. When you make your findings and studies, do</p> <p>3 you ever use the word "approximately"?</p> <p>4 A. Approximately. This is not the nature of my work to</p> <p>5 do. "Approximately" would not be a word used in the</p> <p>6 nature of my work usually. I can't think of a study</p> <p>7 where I've used the word "approximately."</p> <p>8 Q. And yet you use the word "approximately" in your</p> <p>9 expert report?</p> <p>10 A. That's right.</p> <p>11 Q. Twice.</p> <p>12 A. Yes.</p> <p>13 Q. And why did you use it in your expert report?</p> <p>14 A. Because I was asked to make an estimate, an</p> <p>15 extrapolation.</p> <p>16 Q. So you've never made an estimate before writing your</p> <p>17 expert report?</p> <p>18 MS. BAUMGARDNER: Objection.</p> <p>19 A. I estimate all the time.</p> <p>20 Q. Do you use the word "approximately" when you make</p> <p>21 estimates?</p> <p>22 A. All the time.</p> <p>23 Q. In a written report?</p> <p>24 A. I don't have to do written reports where I make</p> <p>25 estimates probably. I can't think of a written</p>

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<p style="text-align: right;">Page 246</p> <p>1 report that I have -- that I've had to make</p> <p>2 estimates before.</p> <p>3 (Whereupon, Deposition Exhibit No. DX-9,</p> <p>4 Prevalence and Characteristics of Youth</p> <p>5 Sexting: A National Study, was marked</p> <p>6 for identification.)</p> <p>7 Q. Okay. I'll show you one more article, DX-9. This</p> <p>8 is approximately a nine-page article called</p> <p>9 "Prevalence and Characteristics of Youth Sexting: A</p> <p>10 National Study." It's by Kimberly Mitchell, David</p> <p>11 Finkelhor, Lisa Jones, and Janis Wolak. Have you</p> <p>12 seen this study before?</p> <p>13 A. Yes.</p> <p>14 Q. And in fact, I think we talked about it earlier in</p> <p>15 this deposition. Correct?</p> <p>16 A. Yes.</p> <p>17 Q. And it's a study that you have cited in one of your</p> <p>18 studies. Correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you cited it for -- in the discussion of</p> <p>21 clarifying the definitions of content. Correct?</p> <p>22 A. Yes.</p> <p>23 Q. This was in a 2013 study --</p> <p>24 A. Yes.</p> <p>25 Q. -- that we marked DX-4. You said that the study</p>	<p style="text-align: right;">Page 248</p> <p>1 Q. Prevalence findings. Thank you for clarifying.</p> <p>2 A. Okay. 7.1 percent, as written in the abstract, said</p> <p>3 they had received nude or nearly nude images of</p> <p>4 others; 5.9 percent of youth reported receiving</p> <p>5 sexually-explicit images are some of the findings.</p> <p>6 Q. Yeah. And I think -- page 16 has a figure which</p> <p>7 breaks down the findings, in terms of creating an</p> <p>8 image.</p> <p>9 A. Yes.</p> <p>10 Q. I think it has -- is that 2.5 percent had appeared</p> <p>11 or created an image --</p> <p>12 A. Yes.</p> <p>13 Q. -- of which 1.3 percent were sexually explicit?</p> <p>14 A. Yes.</p> <p>15 Q. Did you consider the results from this survey at all</p> <p>16 in any of your studies, the 2012 study or the 2013</p> <p>17 study?</p> <p>18 A. Consider the results?</p> <p>19 Q. Yes.</p> <p>20 A. I considered their questions in the construction of</p> <p>21 my questions.</p> <p>22 Q. But not the prevalence data?</p> <p>23 A. No. Not at all. This is children.</p> <p>24 Q. Different age population?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 247</p> <p>1 provided valuable information about the nature of</p> <p>2 sexting in this age group. This age group meaning,</p> <p>3 I believe, people ages 10 to 17. What was the</p> <p>4 valuable information that the study provided that</p> <p>5 you were referring to?</p> <p>6 A. Valuable information because it delineated the</p> <p>7 definition.</p> <p>8 Q. Okay. The definition of . . .</p> <p>9 A. It delineated the definition in Table 2 of their</p> <p>10 study. They delineated the communication medium,</p> <p>11 which was the technology used. They delineated how</p> <p>12 often it occurred, which I used Likert instead of</p> <p>13 actual numbers. In Table 3, they delineated types</p> <p>14 of pictures that were sent. All of those things I</p> <p>15 found useful.</p> <p>16 Q. And trying to get at a more specific definition of</p> <p>17 sexually explicit or some analogous term. Correct?</p> <p>18 A. Yes. Of sexting in general.</p> <p>19 Q. Of sending a sexual image?</p> <p>20 A. Yes.</p> <p>21 Q. Do you recall the findings from this study?</p> <p>22 A. The findings. I mean, I don't know that I could say</p> <p>23 them in a sentence. The findings that I found</p> <p>24 useful or do you want to know the prevalence</p> <p>25 findings?</p>	<p style="text-align: right;">Page 249</p> <p>1 Q. And then did you consider the prevalence data from</p> <p>2 the study in your expert report at all?</p> <p>3 A. I did not. This is children so a totally different</p> <p>4 topic.</p> <p>5 Q. Okay.</p> <p>6 A. And children who are contacted via telephone, whose</p> <p>7 parents need to give permission for their</p> <p>8 participation. It's an entirely different type of</p> <p>9 study.</p> <p>10 Q. Oh, okay. So there are differences other than just</p> <p>11 the age range that make it hard too? There are</p> <p>12 differences other than just the age range?</p> <p>13 A. There are differences other than just the age range.</p> <p>14 Q. And so there are differences other than just the age</p> <p>15 range. Those are the reasons why you didn't</p> <p>16 consider that study?</p> <p>17 A. There are other differences, but the primary reason</p> <p>18 was the age range.</p> <p>19 Q. Okay.</p> <p>20 A. I consider this a completely different issue.</p> <p>21 Q. Okay. In any of the studies you've done previously,</p> <p>22 have you -- do you always conduct your own research</p> <p>23 before you make findings?</p> <p>24 A. Before I make findings? I'm sorry. What does make</p> <p>25 findings mean?</p>

<p style="text-align: right;">Page 250</p> <p>1 Q. Before you reach any conclusions, do you -- do you</p> <p>2 always conduct your own research in terms of drawing</p> <p>3 a sample and doing whatever -- asking them questions</p> <p>4 or whatever type of study you're performing before</p> <p>5 you make any conclusions?</p> <p>6 A. I don't usually make conclusions, but make</p> <p>7 suggestions about how findings are interpreted.</p> <p>8 I don't think that our disciplines are meshing</p> <p>9 well here with terminology. Because conclusions and</p> <p>10 these words are not actually words that I would use.</p> <p>11 Q. The word you use is "findings"?</p> <p>12 A. So I would have a -- I would have some type of topic</p> <p>13 in mind to study that was of my own creation. And</p> <p>14 then I would conduct research. And then I would use</p> <p>15 those results to make tentative interpretations --</p> <p>16 interpretations of how they might be applied, with</p> <p>17 including stated limitations and future directions</p> <p>18 for research. That's my typical method.</p> <p>19 Q. So whenever you make tentative interpretations, are</p> <p>20 you always making those on the basis of data you've</p> <p>21 obtained from your own studies?</p> <p>22 A. Yes.</p> <p>23 Q. Do you ever reach tentative interpretations using</p> <p>24 anybody else's data?</p> <p>25 A. You're always doing that somewhat when you're -- not</p>	<p style="text-align: right;">Page 252</p> <p>1 Q. And if these national studies had shown around 28</p> <p>2 percent of young adults had been involved in sending</p> <p>3 sexually explicit depictions, would your estimate</p> <p>4 have been lower?</p> <p>5 A. Around a third. As I said before when you went in</p> <p>6 the upward direction, it's two or three percentages.</p> <p>7 Because this isn't an exact statistical</p> <p>8 manipulation, two or three percentage points</p> <p>9 probably wouldn't have changed my estimate very</p> <p>10 much. It's taking into consideration my own work as</p> <p>11 well. So one thing that these representative</p> <p>12 samples may not have captured is people in different</p> <p>13 relationship contexts. That might not have been</p> <p>14 something they would have looked for. So that might</p> <p>15 have been -- I don't know. It didn't happen. It's</p> <p>16 hard for me to know what I would have done.</p> <p>17 Q. Yeah. But previously, you seemed to say that you</p> <p>18 couldn't rely solely on your own findings and you</p> <p>19 had to look at some sort of national survey studies.</p> <p>20 Correct?</p> <p>21 A. That's right. I cannot rely solely on my own</p> <p>22 studies.</p> <p>23 Q. Could you rely solely on the national surveys?</p> <p>24 A. We had a discussion earlier about peer review. And</p> <p>25 one of the things that I said that peer review does</p>
<p style="text-align: right;">Page 251</p> <p>1 tentative interpretation, but when you're writing a</p> <p>2 literature review, you're looking at what someone</p> <p>3 else has done and relating it to a theory that</p> <p>4 you're commenting on. So in some respect -- again,</p> <p>5 this is a way I think our disciplines differ in</p> <p>6 terms of terminology, but in some respect, you're</p> <p>7 always considering other people's findings when</p> <p>8 you're conducting your own research.</p> <p>9 Q. Okay. I want to go back to your 33 percent</p> <p>10 estimate, and specifically on page 5 of your expert</p> <p>11 report, marked as DX-2. Middle paragraph in the</p> <p>12 page, you say data presented on this topic in</p> <p>13 national survey studies has shown consistently that</p> <p>14 approximately one-third of young adults have been</p> <p>15 involved in sexting involving sexually-explicit</p> <p>16 visual depictions, which you have a parenthetical</p> <p>17 noting that descriptions of sexting behaviors varies</p> <p>18 across studies.</p> <p>19 A. Yes.</p> <p>20 Q. You said that the data in these national surveys has</p> <p>21 shown consistently that one-third of young adults</p> <p>22 engaged in sending sexual images. Correct?</p> <p>23 A. Consistently that approximately, yes.</p> <p>24 Q. So --</p> <p>25 A. It's consistent that it's around a third.</p>	<p style="text-align: right;">Page 253</p> <p>1 is take a critical look at your methodology and</p> <p>2 outside sources, a couple of them, plus an editor</p> <p>3 take a critical look of your methodology and your</p> <p>4 results. Because of that, I feel very comfortable</p> <p>5 in meshing what was peer-reviewed research with</p> <p>6 research that was non-peer reviewed. So each of the</p> <p>7 studies has limitations. All studies have</p> <p>8 limitations. And I considered them all together.</p> <p>9 Q. So you would not have felt comfortable relying on</p> <p>10 only non-peer-reviewed sources?</p> <p>11 A. Unless it were, like, a large -- like a Gallup poll</p> <p>12 or something. There are some non-peer-reviewed</p> <p>13 sources that have great credibility. So . . .</p> <p>14 Q. What about the MTV-AP poll?</p> <p>15 A. Would I have made this estimate based solely on</p> <p>16 their numbers?</p> <p>17 Q. No. I'm sorry. Does that have the same credibility</p> <p>18 as Pew?</p> <p>19 A. I said Gallup.</p> <p>20 Q. Does that have the same credibility as Gallup?</p> <p>21 A. Gallup?</p> <p>22 Q. To you.</p> <p>23 A. To me? Gallup is a much bigger poll. So I would</p> <p>24 take their numbers as being more meaningful.</p> <p>25 Q. Than the AP-MTV?</p>

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<p style="text-align: right;">Page 254</p> <p>1 A. Yeah. But that doesn't mean that AP and MTV is 2 wrong. 3 Q. Sure. 4 A. Just because I have -- I place, maybe, more meaning 5 in a Gallup poll. 6 Q. And what about National Campaign -- 7 A. To Prevent Teen and Unplanned Pregnancy? 8 Q. Yeah. 9 A. There are not -- I'm not actually commenting on the 10 strength of the institution. I don't know -- I 11 really don't know anything about their -- the 12 companies that they use to do this online sampling. 13 There was a -- anyway, I don't know about those. So 14 it could be that these are very strong companies. 15 Q. Did you look to see how strong they were? 16 A. I would have no basis to estimate how strong they 17 are. I don't use them. I have no -- I have no 18 experience with them. I wouldn't -- there's not 19 a -- as far as I know, a ranking system of online 20 survey companies in terms of their credibility. 21 Q. So you don't know how credible the AP and MTV 22 studies are? 23 A. No. No, you don't know how credible they are. 24 Q. And you don't know how credible The National 25 Campaign to Prevent Teen and Unplanned Pregnancy's</p>	<p style="text-align: right;">Page 256</p> <p>1 So I can't imagine what I would have done if I would 2 have never done research in this field. I suspect 3 if I have never conducted research in this field, I 4 wouldn't have made any estimations, period. 5 Q. What if you were told not to use your own estimates. 6 Would you still make an estimate based on the 7 national surveys? 8 MS. BAUMGARDNER: Objection. 9 A. These are things that did not occur. So it's really 10 hard for me to say what I would have done. But I'm 11 guessing because I have expertise in this field and 12 I was asked to comment on my own research, this is 13 why I agreed to participate in writing this. So I 14 don't suppose I would have. 15 Q. Okay. 16 A. It's hard to know, though, what you might do. 17 MR. SWINTON: It is. I appreciate you 18 entertaining my hypotheticals. I don't think I 19 have any more questions. 20 MS. BAUMGARDNER: I have just a few. 21 Do you need to take a break? 22 THE WITNESS: I'm fine. 23 MS. BAUMGARDNER: Okay. And this should be 24 brief. 25 CROSS-EXAMINATION</p>
<p style="text-align: right;">Page 255</p> <p>1 studies are? 2 A. I mean, credibility is an interesting word. I know 3 what they found. I know what the methods were that 4 they used. They seemed sound to me, so to me 5 they're credible. 6 Q. Would you have relied -- would you have felt 7 comfortable making an estimate about young adults, 8 ages 18 to 24 sending text messages involving 9 sexually-explicit visual depictions based only on 10 the national surveys? 11 A. As I said before, I feel like I just answered this 12 question. But -- 13 Q. A yes or no. 14 A. No. 15 Q. You would not have felt comfortable relying only on 16 the national surveys to make your estimation? 17 A. No. I considered the national samples in 18 conjunction with the other research that I cited. 19 Comfort is not a word that I'm -- it wasn't about 20 comfort. 21 Q. Would you have made your estimation based only on 22 the national surveys? 23 A. You're asking something that would have probably 24 never happened. If I hadn't had research in the 25 field, I would have probably never been approached.</p>	<p style="text-align: right;">Page 257</p> <p>1 BY MS. BAUMGARDNER: 2 Q. Dr. Drouin, you recall Mr. Swinton asking you about 3 convenience samples, do you not? 4 A. Yes. 5 Q. And you, in fact, used a convenience sample for your 6 research? 7 A. Yes. 8 Q. Okay. Convenience samples are used by social 9 scientists, are they not? 10 A. Yes. 11 Q. And they are an accepted methodology within your 12 discipline? 13 A. They are. 14 Q. And they are considered to yield reliable -- a 15 methodology that yields reliable results within the 16 field of social science? 17 A. That's what it's considered in social sciences, yes. 18 Q. Okay. Now, we talked little bit about the term that 19 you included -- this is an expert report that we 20 asked you to write. Correct? 21 A. Correct. 22 Q. It's not a study? 23 A. Correct. 24 Q. Okay. 25 A. Not a study.</p>

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<p style="text-align: right;">Page 258</p> <p>1 Q. And in the report is the phrase that you are</p> <p>2 expressing your expert opinion to a "reasonable</p> <p>3 degree of scientific certainty." Do you recall</p> <p>4 that?</p> <p>5 A. Yes.</p> <p>6 Q. And you recall your testimony that you believe that</p> <p>7 was a legal term. Is that correct?</p> <p>8 A. I think so, yes.</p> <p>9 Q. And back, probably when we asked you to prepare this</p> <p>10 sometime in February, someone may or may not have</p> <p>11 explained to you that that legal term means -- a</p> <p>12 reasonable degree of scientific certainty means more</p> <p>13 probable than not or more likely than not. Do you</p> <p>14 recall that?</p> <p>15 A. Yes, I do recall that.</p> <p>16 Q. Okay. And so that you are expressing the opinions</p> <p>17 in your report to a reasonable degree of scientific</p> <p>18 certainty, meaning after reviewing all the evidence,</p> <p>19 including your own, that you hold these opinions and</p> <p>20 you believe them to be more probable than not or</p> <p>21 they are more likely than not to occur?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. One last thing. We did discuss -- you</p> <p>24 commented that there was variation in the term</p> <p>25 sexting and how the questions were asked in the</p>	<p style="text-align: right;">Page 260</p> <p>1 MS. BAUMGARDNER: Okay. All right. I have</p> <p>2 nothing further.</p> <p>3 REDIRECT EXAMINATION</p> <p>4 BY MR. SWINTON:</p> <p>5 Q. Just one line of questioning.</p> <p>6 Dr. Drouin, going back to your expert report</p> <p>7 and this phrase that we've been going over,</p> <p>8 "reasonable degree of scientific certainty," I just</p> <p>9 want to confirm that that's not a phrase you've ever</p> <p>10 used before in any writing. Correct?</p> <p>11 A. In any of my academic writing, no.</p> <p>12 Q. And that's not a term you've ever seen in any sort</p> <p>13 of study in the field of psychology. Correct?</p> <p>14 A. No. I believe it to be a legal term.</p> <p>15 Q. And you were informed of that legal term in</p> <p>16 conjunction with this case. Correct?</p> <p>17 A. I can't remember how I was informed of this term.</p> <p>18 But yes, I think it was in conjunction with this</p> <p>19 case.</p> <p>20 MR. SWINTON: Okay. No further questions.</p> <p>21 MS. BAUMGARDNER: Okay. That's it.</p> <p>22 We'll waive.</p> <p>23 Well, unless you want to read through the</p> <p>24 transcript of your deposition?</p> <p>25 THE WITNESS: Oh, waive. I get it. Yes, I</p>
<p style="text-align: right;">Page 259</p> <p>1 various studies that we've discussed. Correct?</p> <p>2 A. Yes.</p> <p>3 Q. But we do know there were are few common things that</p> <p>4 a sext message would have to contain to be</p> <p>5 considered a sext message?</p> <p>6 MR. SWINTON: Objection.</p> <p>7 Q. A sext message has to have some sexual content, does</p> <p>8 it not?</p> <p>9 A. From the perspective of the respondent, yes.</p> <p>10 Q. Okay. And it has to be an image. Correct?</p> <p>11 A. Yes. It has to be an image or a video -- a still</p> <p>12 image or a video.</p> <p>13 Q. So sending a picture of a ham sandwich would not be</p> <p>14 considered --</p> <p>15 A. That's correct. Not -- again, some people, I don't</p> <p>16 know. I doubt it. When you're saying is this the</p> <p>17 commonly used interpretation, no.</p> <p>18 Q. And so when you conduct studies, you have to kind of</p> <p>19 assume that your respondents speak English and they</p> <p>20 understand certain terms, that when they say</p> <p>21 something that has a sexual content, they understand</p> <p>22 what that means. And when it has to be a photo or a</p> <p>23 picture, they understand what that term means. Is</p> <p>24 that correct?</p> <p>25 A. Yes. You make that assumption.</p>	<p style="text-align: right;">Page 261</p> <p>1 waive.</p> <p>2 (Whereupon, the deposition concluded on</p> <p>3 Friday, April 26, 2013, at 3:52 p.m.)</p> <p>4</p> <p>5 * * * * *</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>1 C E R T I F I C A T E Page 262</p> <p>2</p> <p>3 I, Susan J. Snyder, a court reporter and Notary</p> <p>4 Public, authorized to administer oaths and to take and</p> <p>5 certify depositions, do hereby certify that the above-named</p> <p>6 witness was by me, before the giving of their deposition,</p> <p>7 first duly sworn to testify to the truth, the whole truth,</p> <p>8 and nothing but the truth to questions propounded at the</p> <p>9 taking of the foregoing deposition in a cause now pending</p> <p>10 and undetermined in said court.</p> <p>11 I further certify that the deposition above-set</p> <p>12 forth was reduced to writing by me by means of machine</p> <p>13 shorthand and was later transcribed from my original</p> <p>14 shorthand notes; that this is a true record of the testimony</p> <p>15 given by the witness; and that said deposition was taken at</p> <p>16 the aforementioned time, date, and place, pursuant to notice</p> <p>17 or stipulations of counsel.</p> <p>18 IN WITNESS WHEREOF, I have set my hand and seal</p> <p>19 this 30th day of April, 2013.</p> <p>20</p> <p>21</p> <p>22</p> <p>23 /s/ Susan J. Snyder</p> <p>24 Susan J. Snyder, Notary Public</p> <p>25 County of Kosciusko, State of Indiana</p> <p>My commission expires: 7/22/2020</p>	

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Taken: 4/29/2013



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Free Speech Coalition v. Holder
Marc Zimmerman, PhD

4/29/2013

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN</p> <p>FREE SPEECH COALITION, ET AL,</p> <p style="text-align: right;">Civil Action No. 2:09-cv-4607</p> <p>Plaintiff, vs. HOLDER,</p> <p>Defendant.</p> <p>----- /</p> <p>Pages 1-246</p> <p>The Deposition of Marc A. Zimmerman, Ph.D., taken pursuant to Notice in the above-entitled cause at 623 West Huron Street, Ann Arbor, Michigan, on April 29, 2013, at 8:30 a.m., before Carol Marie Hicks, CSR-3345, Notary Public in and for the County of Livingston.</p>	<p style="text-align: right;">Page 3</p> <p>1 INDEX TO EXAMINATIONS</p> <p>2 Witness Page</p> <p>3 MARC A. ZIMMERMAN, Ph.D.</p> <p>4 EXAMINATION BY MR. SWINTON 4</p> <p>5</p> <p>6</p> <p>7 EXHIBITS</p> <p>8 Deposition Exhibits Page</p> <p>9 ZIMMERMAN EXHIBIT 1 Dr. Zimmerman's curriculum vitae 23</p> <p>10</p> <p>11 ZIMMERMAN EXHIBIT 2 Dr. Zimmerman's expert report 89</p> <p>12</p> <p>13 ZIMMERMAN EXHIBIT 3 Article entitled Sexting Among Young Adults 95</p> <p>14</p> <p>15 ZIMMERMAN EXHIBIT 4 Article entitled Innovative Recruitment Using Online Networks 151</p> <p>16</p> <p>17 ZIMMERMAN EXHIBIT 5 Article entitled Sexting, Substance Use, and Sexual Risk Behavior in Young Adults 197</p> <p>18</p> <p>19 ZIMMERMAN EXHIBIT 6 Document entitled Sex and Tech, Results from a Survey of Teens and Young Adults 213</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 (Attached.)</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 LORRAINE R. BAUMGARDNER</p> <p>3 BERKMAN, GORDON, MURRAY & DeVAN</p> <p>4 55 Public Square, Suite 2200</p> <p>5 Cleveland, Ohio 44113-1949</p> <p>6 216.781.5245</p> <p>7 lbaumgardner@bgmdlaw.com</p> <p>8 Appearing on behalf of the Plaintiff.</p> <p>9</p> <p>10 NATHAN M. SWINTON</p> <p>11 U.S. DEPARTMENT OF JUSTICE, CIVIL DIVISION</p> <p>12 20 Massachusetts Avenue, NW</p> <p>13 Washington, DC 20001</p> <p>14 202.305.7667</p> <p>15 nathan.m.swinton@usdoj.gov</p> <p>16 Appearing on behalf of the Defendant.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 Ann Arbor, Michigan</p> <p>2 April 29, 2013</p> <p>3 At or about 8:30 a.m.</p> <p>4 MARC A. ZIMMERMAN, Ph.D.,</p> <p>5 having first been duly sworn, was examined and testified</p> <p>6 on his oath as follows:</p> <p>7 EXAMINATION</p> <p>8 BY MR. SWINTON:</p> <p>9 Q Good morning, Dr. Zimmerman.</p> <p>10 A Good morning.</p> <p>11 Q My name is Nathan Swinton. I'm the attorney with</p> <p>12 the United States Department of Justice. I</p> <p>13 represent the United States in a case called Free</p> <p>14 Speech Coalition versus Holder, which is currently</p> <p>15 pending in the Eastern District of Pennsylvania.</p> <p>16 Are you currently retained; have you currently</p> <p>17 retained counsel?</p> <p>18 A No.</p> <p>19 Q So Ms. Baumgardner is not your counsel today?</p> <p>20 A No, she's retained me.</p> <p>21 Q Okay. Have you ever had your deposition taken</p> <p>22 before?</p> <p>23 A No.</p> <p>24 Q Well, I will be asking you a series of questions, to</p> <p>25 which you're under oath to provide full and complete</p>



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<p>1 answers. If you do not understand any question, 2 please let me know before you respond, and I will 3 explain or rephrase the question; is that okay? 4 A Yeah. 5 Q If you answer a question, I'll assume that you 6 understood the question, okay? 7 A Yeah. 8 Q Did you take an oath before we started this morning? 9 A Yes. 10 Q Did you understand the nature of the oath? 11 A Yes. 12 Q The oath requires you to fully answer each question, 13 to the extent that you can. If you're not sure of 14 an answer, or don't have a complete answer, then you 15 must still answer the question, to the extent you 16 can. 17 A Okay. And I shouldn't nod, right, 'cause you 18 can't -- 19 Q That's true. The court reporter can only record our 20 words, so please answer each question with a verbal 21 response. 22 A Okay. 23 Q Please also wait to allow me to finish asking the 24 question before you answer, and that way we can 25 avoid talking over one another.</p>	<p>1 today? 2 A I reread my papers. What else did I do? I looked 3 up some things on the internet, like percentage of 4 people who use the internet in the age group, not 5 that I may not remember the number off the top of my 6 head. 7 I talked to these guys; you know, 8 obviously, they called me to ask me to do this. 9 They asked me to write, I think, the report that you 10 may have gotten, is a two-page kind of summary of 11 the project and what I think for extrapolation, so I 12 did a little bit of work for that. 13 I, you know, kinda thought about what 14 I was going to say, in terms of what points I might 15 want to make about my study. What else did I do? I 16 think that's about it. 17 Q Okay. Did you review the reports of any other 18 experts in this case? 19 A And I read Stark's report. 20 Q Okay. Other than Ms. Baumgardner and people with 21 her firm, have you spoken with anybody else about 22 the deposition today? 23 A Well, I told my wife. 24 Q Okay. 25 A I mean, I told people I was being deposed, you know,</p>
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<p>1 A Okay, I'll try. 2 Q Okay. 3 A I'm from the East Coast originally, so. . . 4 Q Okay. I'll plan to take breaks about every 90 5 minutes. If you need a break at any time before 6 that, please let me know. The one thing I ask is 7 that you finish responding to a question before we 8 take a break. 9 A Sure. 10 Q From time to time Ms. Baumgardner may object. After 11 her objection, I'm going to ask you to go ahead and 12 answer the question, unless she instructs you not 13 to; is that okay? 14 A Yeah. 15 Q Have you taken, or do you intend to take, any 16 medication that would affect your ability to testify 17 accurately and honestly today? 18 A No. 19 Q Okay. Can you please state your full name, for the 20 record. 21 A Mark, with a "c," M-a-r-c, Alan, A-l-a-n, Zimmerman, 22 one "n." 23 Q Okay. So that's, Z-i-m-m-e-r-m-a-n. 24 A Correct. 25 Q What did you do to prepare for your deposition</p>	<p>1 but I didn't really talk about much, 'cause most of 2 my friends are not academics, and they don't know 3 what I would be talking about anyway. So I said it 4 was about a study that I had done, and they, these 5 guys found the study, and asked me to be here, 6 so. . . 7 Q Okay. I want to talk a little bit about your 8 background. Do you consider yourself to have an 9 area of expertise? 10 A I guess I'm supposed to say, "yes," because I'm an 11 academic. My career has actually been pretty 12 eclectic in many ways, some people might say, but 13 when somebody asks, "What's your area expertise," if 14 I should just ask you directly, is adolescent health 15 and development, is really kind of where I focus 16 most of my research and most of my career. 17 Q And how to you define adolescent? 18 A Well, that's also a good question. I typically 19 define it as the second decade of life, 10 to 20, 20 but there are lots of -- there's some evidence that, 21 obviously, brain development, all that sort of 22 thing, that adolescence actually goes maybe to 25, 23 and then that's certainly an adult transitional 24 period, which I also study. 25 So I study the development of kids,</p>

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<p>1 basically, into that early adulthood period, so, I</p> <p>2 guess, I would say, 10 to about 25, even though the</p> <p>3 journal I edit, I take only papers that are 10 to</p> <p>4 20, unless it's about the transition to adulthood.</p> <p>5 So that they look at predictors in that age group</p> <p>6 to, like, let's say how you'll end up. But they</p> <p>7 look at when you were 15, and some factors there,</p> <p>8 and then said, Oh, and, look, he became a U.S.</p> <p>9 attorney, you know, who are those people, that would</p> <p>10 count, but if it's beyond 20, I don't. But when I</p> <p>11 do my own research, 10-to-25-ish.</p> <p>12 Q Okay. What qualifications do you think that you</p> <p>13 have to make you an expert in adolescent health and</p> <p>14 development?</p> <p>15 A What kind of qualifications do I have. Oh jeez.</p> <p>16 Well, mainly, I'm a research psychologist, a Ph.D,</p> <p>17 from one of the top, arguably the top five Ph.D.'s</p> <p>18 in psychology in the country, at the University of</p> <p>19 Illinois, where a lot of these, a lot of people,</p> <p>20 who, like, invented statistical methods, and that</p> <p>21 sort of thing, were from.</p> <p>22 And, you know, I had a master's</p> <p>23 degree before that. And I've been doing this since,</p> <p>24 well, when I got into graduate school, and if you</p> <p>25 count two years of sort of figuring things out, so</p>	<p>1 A That's an interesting question. Jeez, I didn't know</p> <p>2 you were going to ask me about my older, you know,</p> <p>3 my biography, I just thought more recently.</p> <p>4 Well, you know, it was really</p> <p>5 fortuitous. My dissertation was about psychological</p> <p>6 empowerment and how people felt control and agency</p> <p>7 in their lives, and how that related to other</p> <p>8 factors, like health, and mental health in</p> <p>9 particular. And then I moved to Washington D.C,</p> <p>10 where I worked, first, at American University for</p> <p>11 two years, and then I was a Congressional fellow in</p> <p>12 the Office of Technology Assessment, which is now a</p> <p>13 defunct agency, but was a sister agency of Congress,</p> <p>14 like the GAO and Library of Congress.</p> <p>15 And I had a friend of mine, who I</p> <p>16 went to graduate school with, and he was a little</p> <p>17 older than me, so we overlapped a couple years, then</p> <p>18 he left and went to a school, the University of</p> <p>19 Maryland in Baltimore County. And we played</p> <p>20 softball together, and we were friendly, and I</p> <p>21 called him. I said, "Hey, I moved to Washington,</p> <p>22 you know, let's have lunch."</p> <p>23 So we had lunch, and we chatted about</p> <p>24 ways that we could collaborate; he's one of the</p> <p>25 smartest people I've ever known. This is probably</p>
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<p>1 and you count that, that was in 1983, so that's,</p> <p>2 like, 30 years of doing this. And I've been at the</p> <p>3 University of Michigan since 1989, so that's 24</p> <p>4 years here at maybe the best social science,</p> <p>5 behavioral science university, arguably, in the</p> <p>6 country.</p> <p>7 So I'm around all these people, who</p> <p>8 are really smart, like Eric, Eric Volz, who is a</p> <p>9 co-i on this project that we may be talking about</p> <p>10 later. And I've had lots of experience publishing</p> <p>11 peer-reviewed articles, everything from survey</p> <p>12 research, to interventional research, where we try</p> <p>13 to make change, and study that.</p> <p>14 My Ph.D. is in, what was called at</p> <p>15 the time, personality and social ecology, so we were</p> <p>16 interested in both how people interacted in the</p> <p>17 environment, but also measurement, and how do you</p> <p>18 measure something that you can't put on a scale and</p> <p>19 weigh or measure with a tape measure, like attitudes</p> <p>20 and beliefs. And so I think I've been doing this</p> <p>21 for a long time. I'm a gray hair. I'm a</p> <p>22 silverback. What else would qualify me? I think</p> <p>23 all those things qualify me.</p> <p>24 Q Why did you become interested in adolescent health</p> <p>25 and development?</p>	<p>1 more detail than you want, but, fortuitously, he</p> <p>2 called me up one day and said, "I have an</p> <p>3 opportunity for us to potentially collaborate." I</p> <p>4 said, "What's that"? And he said, "Well, the</p> <p>5 National Institute on Drug Abuse, I have a contact</p> <p>6 there, who let me know that they were interested in</p> <p>7 high school dropout, or kids at risk and drug use."</p> <p>8 So we decided, 'cause he had some contacts in</p> <p>9 Baltimore with school dropout, with the school</p> <p>10 system, that we got a list of kids, who had dropped</p> <p>11 out of school over the last previous five years.</p> <p>12 And we made a proposal to study those guys, and look</p> <p>13 at outcomes, and they were adolescents at the time.</p> <p>14 And so we, I started getting into the</p> <p>15 adolescent literature, which I hadn't done before.</p> <p>16 And that was 1986, '87, right around that period of</p> <p>17 time, and that was the beginning of it.</p> <p>18 And really what happened was it all</p> <p>19 took off when we found that not all kids with a risk</p> <p>20 factor that would predict an outcome, specifically</p> <p>21 single parenthood, was not related necessarily to</p> <p>22 poor outcomes, you know, growing up in a</p> <p>23 single-mother household. And that sort of just</p> <p>24 threw everything in disarray, 'cause I believed our</p> <p>25 data, you know. It was limited in some ways, but it</p>

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<p>1 was very unique in other ways, and led me to this</p> <p>2 world of adolescent resiliency and looking at</p> <p>3 factors that predict positive outcomes even in the</p> <p>4 face of risk.</p> <p>5 And then that was sort of the</p> <p>6 beginning of my adolescent research, and, you know,</p> <p>7 we kind of, just everything has developed since</p> <p>8 then. I've been funded by NIDA, basically, almost</p> <p>9 every year since. I've been funded since,</p> <p>10 University of Michigan, continuously by NIDA,</p> <p>11 National Institute on Drug Abuse, NIDA, which is</p> <p>12 NIH, which is federal government, since 1994, so I</p> <p>13 think I'm a NIDA researcher.</p> <p>14 Q In reviewing some of the articles you've published,</p> <p>15 it seems like you've looked a lot at adolescence and</p> <p>16 different risk factors that they face; is that one</p> <p>17 facet of the body of work you've done?</p> <p>18 A Well, ironically, while I'm looking at the</p> <p>19 importance of positive factors in kids' lives, I</p> <p>20 often did that in the context of risk, right, which</p> <p>21 is a criticism of the field, because, like, well, if</p> <p>22 they're resilient, why do you have to look at risk?</p> <p>23 Well, resilience only works in the</p> <p>24 context of risk, 'cause you grow up affluent, and</p> <p>25 things are kinda taken care of for you, and whatnot,</p>	<p>1 A Which is the way researchers do everything. What we</p> <p>2 do is we try to understand the complexity of life.</p> <p>3 Nothing is really quite so simple.</p> <p>4 Q Sure.</p> <p>5 A And that's what we do, is we try to understand the</p> <p>6 complexity of life.</p> <p>7 Q So you've looked at adolescent development and risk</p> <p>8 factors and resiliency; are there any other main</p> <p>9 facets of adolescent development that you've looked</p> <p>10 at in your studies?</p> <p>11 A Well, the outcomes we typically look at are</p> <p>12 substance abuse, and, by that, I mean alcohol,</p> <p>13 tobacco, marijuana, and other drugs, just in the</p> <p>14 lower class. And I say that, because there's</p> <p>15 relatively few kids actually do drugs other than,</p> <p>16 illicit drugs other than marijuana, interestingly</p> <p>17 enough. I mean, some do cocaine, some do LSD, some</p> <p>18 do pills, and that all that stuff, but it's very low</p> <p>19 rates, in my data and national data. Marijuana and</p> <p>20 alcohol are a different story. Now, of course,</p> <p>21 alcohol is illegal for them as well, but not an</p> <p>22 illegal substance in the same way, and the same with</p> <p>23 tobacco, for that matter. And then we studied</p> <p>24 violent behavior.</p> <p>25 We also study, you know, what</p>
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<p>1 you know, doesn't mean you're going to have a great</p> <p>2 outcome; I mean, you could have all sorts of</p> <p>3 problems. But somebody, who succeeds in that</p> <p>4 context, is different than somebody, who succeeds in</p> <p>5 a context of growing up in poverty or growing up in</p> <p>6 a context where there's lots of violence around you</p> <p>7 all the time, and that sort of thing, so, yes, I</p> <p>8 study risk.</p> <p>9 In fact, I've studied, you know, the</p> <p>10 populations I've studied are people, who were at</p> <p>11 risk for high school dropout. And the subsequent</p> <p>12 study, the one I just described, actually was about</p> <p>13 people, who were at risk of school dropout, but we</p> <p>14 want to now study them before they dropped out to</p> <p>15 see if we could find predictors of dropout. And one</p> <p>16 of the main questions was, does drug use lead to</p> <p>17 dropout, or does dropout lead to drug use, you know,</p> <p>18 increased drug use. You're going to ask me what the</p> <p>19 result was, right?</p> <p>20 Q I am interested. What was the result of that study?</p> <p>21 A You are? Well, it was actually complex, that</p> <p>22 actually drug use led to school apathy, and it was</p> <p>23 school apathy that actually led to dropout, so it</p> <p>24 was not quite direct, so it kinda depended.</p> <p>25 Q Okay.</p>	<p>1 psychologists call, internalizing and externalizing.</p> <p>2 Externalizing are the delinquency, violence, so</p> <p>3 nonviolent delinquency, burning houses and</p> <p>4 non-interpersonal violence are stealing things.</p> <p>5 Then there's the violent behavior, which is, you</p> <p>6 know, shooting people, stabbing people, getting into</p> <p>7 fights, gang fights, all those sort of things, and</p> <p>8 then there's the substance abuse that we're talking</p> <p>9 about. Those are sort of the externalizing</p> <p>10 behaviors. And it might also include school</p> <p>11 dropout, you know, things like that.</p> <p>12 And then the other side of it is</p> <p>13 internalizing behaviors, and that's usually mental</p> <p>14 health basically. It's things like anxiety,</p> <p>15 depression, loneliness, you know, all those sort of</p> <p>16 even fuzzier things.</p> <p>17 Q I see that, I know you are the chair of the --</p> <p>18 A Of behavioral health education.</p> <p>19 Q Correct. But you also teach classes in the</p> <p>20 psychology department.</p> <p>21 A No, actually, I don't teach any class -- in fact, I</p> <p>22 hardly teach any classes at all at the university.</p> <p>23 Q Okay.</p> <p>24 A Partly because I'm chair of my department, so I</p> <p>25 get -- we have, in the School of Public Health</p>

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<p>1 there's a three-course load; we have to teach three</p> <p>2 classes, and do independent studies. I do lots of</p> <p>3 those, which are working individually, one on one,</p> <p>4 with students. I have one course, because I'm</p> <p>5 chair, and then I have one course, because I edit a</p> <p>6 journal, Youth & Society, which you might eventually</p> <p>7 get to, I don't know. I guess that leads to my</p> <p>8 expertise in youth, right?</p> <p>9 And then I teach a course, I've</p> <p>10 taught a course in research methods. And then</p> <p>11 recently, because of the, just the teaching, you</p> <p>12 know, issues in the department, which I won't go</p> <p>13 into all the gory details, but when a faculty member</p> <p>14 leaves, there's changes, or, you know, gets a new</p> <p>15 different assignment at the university, or</p> <p>16 something, it disrupts the teaching program, like</p> <p>17 who is going to teach what classes. So I filled in</p> <p>18 for this class, and I got somebody else to teach my</p> <p>19 methods class.</p> <p>20 So for the last three years I've been</p> <p>21 teaching a course on, basically, socializing</p> <p>22 doctoral students. It's an introductory seminar for</p> <p>23 doctoral students to get them, sort of their heads</p> <p>24 into what it means to have a Ph.D., so learning</p> <p>25 about the, you know, the peer-reviewed publication</p>	<p>1 other kinds of behaviors.</p> <p>2 And it was all during the period in</p> <p>3 time, and it's really out of the news a little bit,</p> <p>4 but it was sort of motivated by what was in the news</p> <p>5 about kids who would sext, and then their friends,</p> <p>6 it would go viral, and, you know, yada, yada, yada.</p> <p>7 And it was really during that time, so what exact</p> <p>8 years did we actually do that study? Probably three</p> <p>9 or four years ago the study was funded.</p> <p>10 It was actually funded through the</p> <p>11 stimulus. Part of the stimulus -- all that stimulus</p> <p>12 went to all different directions, and one of the</p> <p>13 directions was National Institutes of Health, you</p> <p>14 know, for projects that were ready to go. So the</p> <p>15 NIH said, Well, we have an influx of money, we want</p> <p>16 to get this money out there, because you'll hire</p> <p>17 people, and that's a good thing. We ended up hiring</p> <p>18 people, and, you know, we actually also sent the</p> <p>19 money out to people, who filled out the</p> <p>20 questionnaire, and that sort of thing.</p> <p>21 And so it was during that period of</p> <p>22 time that sexting was in the news. And when we sat</p> <p>23 around talking about, okay, well, we have, when we</p> <p>24 do research, typically you get funded to do, you</p> <p>25 know, let's say, these 30 questions, or 80</p>
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<p>1 process, learning about grant proposal writing,</p> <p>2 learning about mentorship and how to use or</p> <p>3 recognize abuse of that, how to think conceptually</p> <p>4 about their research, how to write clearly and sort</p> <p>5 of in an expository writing, those sorts of things.</p> <p>6 Before that, by the way, is research</p> <p>7 methods; do I need to go into more detail about what</p> <p>8 that is, or is that pretty clear? It's basically</p> <p>9 all the stuff we're going to talk about.</p> <p>10 Q Yeah. Yeah. I think I have a good understanding of</p> <p>11 it for present purposes.</p> <p>12 A Okay.</p> <p>13 Q I was interested, in thinking a little bit about</p> <p>14 your testimony in this case, do you consider</p> <p>15 yourself to be an expert in sexting at all?</p> <p>16 A Nobody is really an expert in sexting, actually, is</p> <p>17 one of the things that we found out. I think there</p> <p>18 are some, a very small number, in the United States,</p> <p>19 who have done more research than we have. We've not</p> <p>20 done a lot of research in this; we did, really, that</p> <p>21 one study. But one of the reasons that motivated us</p> <p>22 to actually include the questions in the</p> <p>23 questionnaire was because there was very little</p> <p>24 about sexting out there, number one; and, number</p> <p>25 two, we wanted to know if it was related to sort of</p>	<p>1 questions, but when you have somebody filling out a</p> <p>2 questionnaire on the internet, you can ask 120</p> <p>3 questions. You can always ask more than you sort of</p> <p>4 negotiated. You can't ask less. And so we added</p> <p>5 some questions about sexting, and thought, well,</p> <p>6 this would be interesting. It's a pertinent</p> <p>7 population, because they're young adults, obviously,</p> <p>8 very sexually active, engaging potentially in</p> <p>9 sexually risky behaviors, and is sexting something</p> <p>10 that is risky?</p> <p>11 And, you know, especially being an</p> <p>12 old guy, I'm thinking, like, you know, sexting, you</p> <p>13 know, like, wow, this is really, you know,</p> <p>14 interesting behavior, because, you know, when I grew</p> <p>15 up, there were no cell phones, there were pay</p> <p>16 phones, you know. I mean, you don't see people --</p> <p>17 in fact, sometimes you walk around New York City you</p> <p>18 can see a payphone in the subways, and whatnot, and</p> <p>19 I've taken pictures of them, 'cause my kids are,</p> <p>20 like, you know, what's that? You know, they know</p> <p>21 now, but when they were little they're, like, what's</p> <p>22 a phone doing in the middle of here, in the middle</p> <p>23 of nowhere, 'cause they didn't get it.</p> <p>24 So, anyway, so sexting was a new</p> <p>25 phenomenon that's kind of growing out of all this,</p>

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<p>1 you know, explosion of technology that we have, and</p> <p>2 that's why we asked the question.</p> <p>3 Are their people who are more expert?</p> <p>4 Probably; who have done more studies, or looked at</p> <p>5 this more in depth, you know, in multiple different</p> <p>6 ways, 'cause that's the way you do research, is, you</p> <p>7 know, one study itself doesn't do that.</p> <p>8 There's, for example, there's a</p> <p>9 national conference called Sex Tech, and I forgot</p> <p>10 the woman's name who sort of organized it, sort of a</p> <p>11 private citizen. She may have an appointment, but</p> <p>12 she's not really a faculty member, she may have like</p> <p>13 an adjunct appointment. And it's basically all</p> <p>14 around, the whole focus is all around using</p> <p>15 technology to get people to engage in safer sex. So</p> <p>16 I would bet that there are people, who either go to</p> <p>17 that conference, or she may have a better handle on</p> <p>18 sexting.</p> <p>19 Having said that, there's not a lot</p> <p>20 of research on it, so there's not that many people</p> <p>21 who know about it, you know, and a lot of the</p> <p>22 studies that I've been on it are way more convenient</p> <p>23 samples than ours, which is why we also thought this</p> <p>24 would be an interesting opportunity to look at.</p> <p>25 (Discussion off the record.)</p>	<p>1 they have, it hasn't gone viral, 'cause I might have</p> <p>2 heard of that.</p> <p>3 Q I'm sure you're happy about that, right?</p> <p>4 A Yeah, very happy about that. Actually, I don't</p> <p>5 think either one of my kids did.</p> <p>6 Q Okay.</p> <p>7 A I have to say, frankly, I don't quite get it, but,</p> <p>8 you know, there's lots of stuff I don't get.</p> <p>9 Q I'm going to hand you a document. We'll mark this</p> <p>10 as an exhibit.</p> <p>11 A Oh, I'm actually touching exhibits. This is really</p> <p>12 like television. Did you write that down? You have</p> <p>13 to do everything I say?</p> <p>14 (Zimmerman Deposition Exhibit No. 1</p> <p>15 was marked for identification.)</p> <p>16 Q This exhibit is Zimmerman 1.</p> <p>17 A This is my vitae. I know this.</p> <p>18 Q Dr. Zimmerman, I just handed you a document labeled</p> <p>19 Zimmerman 1.</p> <p>20 A Okay.</p> <p>21 Q This is the curriculum, I say "vitae," you "vitae"?</p> <p>22 A Yeah, vitae, CV.</p> <p>23 Q Latin, okay.</p> <p>24 A Yeah, you learn Latin.</p> <p>25 Q And I believe it's just the previous ten years,</p>
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<p>1 Q So you said that some people were more experts than</p> <p>2 others in sexting; are there any names that come to</p> <p>3 mind?</p> <p>4 A Not really, because it's such a new area, and, you</p> <p>5 know, the person, who runs this Sex Tech conference,</p> <p>6 might actually know, you know, 'cause she's in that</p> <p>7 world, way more than I am, and I don't remember her</p> <p>8 name.</p> <p>9 Q Okay.</p> <p>10 A I'm sorry, I just don't remember her name. I could,</p> <p>11 at a break, make a phone call and ask and see.</p> <p>12 MR. BAUMGARDNER: That's okay,</p> <p>13 Doctor.</p> <p>14 BY MR. SWINTON:</p> <p>15 Q I can do all that, try to find it.</p> <p>16 A Right. Right.</p> <p>17 Q I'm curious. I know you said that, you know, you</p> <p>18 didn't grow up with a cell phone, obviously, and all</p> <p>19 that; have you ever sent a sext message yourself?</p> <p>20 A No.</p> <p>21 Q So you don't have any personal experience with</p> <p>22 sexting.</p> <p>23 A No. No. And I don't think my kids have.</p> <p>24 Q Okay.</p> <p>25 A But I don't know that for sure. It's certainly, if</p>	<p>1 correct; it's dated February 2013, but it just goes</p> <p>2 back for ten, or it's labeled "Previous Ten Years"</p> <p>3 in the upper right-hand corner, correct?</p> <p>4 A Yeah, I don't know why.</p> <p>5 Q I believe --</p> <p>6 A I don't know why it did that, frankly. I have to</p> <p>7 check that out. I wouldn't have done that. I don't</p> <p>8 think -- I don't know. Oh, it might be because</p> <p>9 that's what you asked for. You didn't want my whole</p> <p>10 big thing, that's why.</p> <p>11 MR. BAUMGARDNER: Do you have a</p> <p>12 second exhibit?</p> <p>13 MR. SWINTON: We do.</p> <p>14 BY MR. SWINTON:</p> <p>15 Q I specifically just wanted to look at the one that's</p> <p>16 the previous ten years, so I just wanted to make</p> <p>17 sure we have the same document.</p> <p>18 A Right, right, right, yeah.</p> <p>19 Q Perfect. I was interested in, if you can turn to</p> <p>20 page three, and this is a list of the articles</p> <p>21 you've published.</p> <p>22 A Okay.</p> <p>23 Q I just had a couple of questions about these. First</p> <p>24 one is I see, on some of the articles, your name is</p> <p>25 listed first.</p>

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<p>1 A Um-hum.</p> <p>2 Q And on other ones, where there are multiple authors,</p> <p>3 your name is listed second, or third, or fourth.</p> <p>4 A Seventh, or last. That's interesting. Now, in</p> <p>5 fact, the American Psychological Association has</p> <p>6 guidelines for author, order of authorship on an</p> <p>7 article, how much you contributed. And more and</p> <p>8 more peer-reviewed journals are actually requiring</p> <p>9 you to indicate that you've made a substantive</p> <p>10 contribution, which is sort of interesting also,</p> <p>11 because this has actually become an issue in the</p> <p>12 business, because I think some people are ripped off</p> <p>13 and some people are throwing bones, meaning some</p> <p>14 people do some work and are not included, and how</p> <p>15 come, and people have made noise about that, and</p> <p>16 then people have been discovered that, well, you</p> <p>17 didn't do anything, how come you're an author?</p> <p>18 Q Okay.</p> <p>19 A So there's been some guidelines. That's the</p> <p>20 American Psychological Association. It's not a</p> <p>21 legal document. It's sort of more an ethics,</p> <p>22 thinking about, okay, this is what you want to do.</p> <p>23 Having said all that, you know, I'm a professor, I</p> <p>24 don't give short answers.</p> <p>25 At this point in my career, when I</p>	<p>1 sciences, social behavioral sciences, first author</p> <p>2 is, these are your ideas, even if it's not your</p> <p>3 data, right, these are your ideas, you've done the</p> <p>4 bulk of the work, and you've carried it through.</p> <p>5 Q Okay.</p> <p>6 A In the medical literature, the opposite is true, you</p> <p>7 would often put your student first, or a postdoc, or</p> <p>8 a fellow, or something like that, first, but the</p> <p>9 senior author is the last author. And then in</p> <p>10 between kinda depends, usually like, what I do, just</p> <p>11 in my own style of doing it, if there's four of us</p> <p>12 doing a paper together, we talk about who's going to</p> <p>13 take the lead, they'll be the first author, and then</p> <p>14 what the order of authors is going to be, to define</p> <p>15 what kind of work we expect, and then we say, okay,</p> <p>16 that's our default.</p> <p>17 And as we write the paper, if it</p> <p>18 changes, we have to talk about it, so maybe</p> <p>19 somebody, who was going to be second, ended up</p> <p>20 getting too busy or something, and they become</p> <p>21 fourth, because they didn't do much as they thought.</p> <p>22 So in the medical journals being last</p> <p>23 author is probably, in some ways, is basically</p> <p>24 saying that you're the senior guy, but it's the</p> <p>25 prestigious place to be, 'cause it means that you</p>
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<p>1 work with a student, even if I do a little bit more</p> <p>2 of the work, I let them be first author, 'cause, for</p> <p>3 example, if they're working on my research, it's</p> <p>4 automatically, that's my data, right, and I've</p> <p>5 conceptualized it. And if I'm the leader of the</p> <p>6 grant, even if I have co-investigators with me, I</p> <p>7 almost always do, I always do, I can't think of</p> <p>8 another one where I have not, you know, they're</p> <p>9 still borne out of my ideas, they get developed with</p> <p>10 their input and whatnot, so I'm an author on all</p> <p>11 things that I'm involved in.</p> <p>12 Sometimes, when working specifically</p> <p>13 with a student, who's doing their dissertation, for</p> <p>14 example, I might kind of direct where they go, but</p> <p>15 then they really take the ball and run with it, so,</p> <p>16 you know, that's your paper, you're first author,</p> <p>17 and I, you know, basically mentor them through the</p> <p>18 process; other times a colleague might do that.</p> <p>19 And, as a senior person, again, a</p> <p>20 gray hair, I, you know, tend to be more loose with</p> <p>21 giving up. Like, if I did equal work, I'd almost</p> <p>22 always give it to somebody else first. It's just,</p> <p>23 you know, the nature of where I am in my career</p> <p>24 versus where they are to be more helpful.</p> <p>25 So first author is, in the behavioral</p>	<p>1 have an operation going, and that you have other</p> <p>2 people doing some of the, you know, heavy lifting,</p> <p>3 if you will. But you've done all of the sort of</p> <p>4 background infrastructure, creating all the</p> <p>5 opportunities, gotten the data, gotten the funding,</p> <p>6 led the process. You know what I mean? Is that</p> <p>7 clear?</p> <p>8 Q Yeah.</p> <p>9 A So being first or last is probably the most</p> <p>10 prestigious, and that in between it's how much</p> <p>11 contribution you've made.</p> <p>12 Q It also depends, on a certain extent, to which type</p> <p>13 of journal you're publishing in.</p> <p>14 A To some extent. The medical journals, you know, you</p> <p>15 tend to be last. And in the behavioral science</p> <p>16 journals, if you've done the lead work, then you</p> <p>17 tend to be first.</p> <p>18 Q Okay.</p> <p>19 A And in the medical journals, the first one probably</p> <p>20 does the most work, but the last one, for that</p> <p>21 paper, but the last one does all the infrastructure</p> <p>22 work to make that paper possible. You see the</p> <p>23 difference?</p> <p>24 Q I do. Yeah, thank you.</p> <p>25 A So I can go through, for example, like the first</p>

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<p>1 three there, first student, student, junior 2 colleague, all the way down, and, anyway, in terms 3 of first. 4 Q On this same page, actually, I was just interested 5 in a term that I'm not as familiar with, not being 6 in academia, so you have the label "refereed 7 articles"; is refereed articles the same as peer- 8 reviewed? 9 A Peer-reviewed, yeah. 10 Q And I know you mentioned that -- 11 A I could change that, but I've always use "refereed". 12 Q But they're synonymous. 13 A They're synonymous. 14 Q And I was interested, I know you also mentioned that 15 you, teaching classes on this for the students who 16 are pursuing their Ph.D.'s, and what is this, tell 17 me more about what the peer-review concept, or the 18 referred-article concept, is in academia. 19 A Well, I could certainly do that. I've probably, you 20 know, as editor of Health Education and Behavior, 21 which is a journal for the Society for Public Health 22 Education, which is the premiere society for the 23 department that I'm chair of in public health, sort 24 of the behavioral science of public health, health 25 education.</p>	<p>1 of factors that go into it. One, is you've studied 2 the population that that journal is interested in. 3 Another one, is you want this audience to see some 4 of those ideas, 'cause they don't usually read this 5 kind of article, because most people, who do that 6 kind of work, publish over there, so they want to 7 publish in this one. 8 Sometimes you go for prestige, 9 'cause, you know, the more prestigious journals are 10 the ones that'll get noticed. You typically want to 11 go into journals that are what's called indexed, so 12 that, when people search an article, it's in that 13 database. If it's not indexed, it's not in that 14 database. 15 Q Okay. 16 A There's a few journal articles that I've published 17 like that. There's Health Promotion Practice, which 18 is another journal of the Society for Public Health 19 Education I told you about, I don't think that's 20 indexed yet, or I think -- it's a relatively new 21 journal, and it takes a few years to get indexed. 22 Anyway, I won't go into that detail. 23 So what the editor does is, once you 24 select your journal, you then send your article 25 there. Sometimes people write a very long</p>
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<p>1 I was the editor for that for 13 2 years, and now I'm editor of Youth & Society, and so 3 I've probably been the referee for over 3,000 4 articles, actually. And when I think about that, 5 it's like -- somebody asked me this once, that's why 6 it's in my head, 'cause, depending on the journal, 7 when I first started, I was getting about 150 8 articles a year, but by the time I was done there 9 were over 300, and the current one is about 225, so 10 if you add up all those numbers and you can do the 11 math. 12 In any event, a peer-reviewed journal 13 is basically, what an editor does, what I do, is I 14 send the journal article that somebody submits 15 independently, I don't solicit; sometimes there is, 16 and I can describe that if you want. But, 17 typically, you write an article, or write a research 18 article, or a thought piece, or a review article, or 19 something, for the academic literature, and then you 20 send it to the appropriate audience, or the audience 21 you think is the most appropriate for the article. 22 And, you know, there's all sorts of, 23 you know, ideas, and that's something I teach in my 24 class I was talking about, about, well, how do you 25 know which journal to send it to? And there's lots</p>	<p>1 introductory letter, which I read, skim. I barely 2 read those, it doesn't really matter, 'cause I don't 3 care what they think about whether it fits. I read 4 it and whether it fits. 5 And over the weekend, in fact, some 6 of the people sent to my journal, which is the 7 second decade of life, sent to my journal studies of 8 24-year-olds. And I said, "Sorry, that doesn't even 9 fit, I'm not even going to send it out." Not all 10 editors do this, but many do, they do a first 11 screening of does it fit, does it rise to the level 12 that you would at least consider it being published 13 if other people agreed. 14 I will sometimes reject a paper, or 15 not even send it out for review, if it doesn't even 16 come close methodologically, or, you know, it's 17 talking about something that's, you know, just not 18 sound either theoretically or methodologically. And 19 I skim the article, I don't read them super 20 carefully to do that, but I skim it and I get a 21 sense of it. So it's a relatively low bar, but 22 there is a bar, right? 23 And part of the reason I do that is 24 because reviewers are very difficult to get. I 25 mean, you know, you're asking people to do something</p>

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<p>1 for free and it takes some time. It's part of the 2 business, but it's still little something like that. 3 So then I send it out to three 4 people. And I send it out to -- not all journals 5 send it out to three people. I actually recently 6 sent out a review back on a paper where it was sent 7 to five people. I don't know why they sent it to 8 five people, 'cause you'll get as many opinions as 9 you send it out to, really. It's actually quite 10 amazing when people agree. It's kinda nice when 11 people agree. And those decisions are really quite 12 easy, but part of my job, as an editor, is to kind 13 of referee the reviewers. So you send it out to 14 three reviewers, typically, most journals are 15 sending out to three reviewers, and you wait for 16 them to give their comments on the paper. 17 They usually write a review, so they 18 write sometimes two paragraphs and sometimes five 19 pages, and some of them talk about, you know, you 20 missed a period and a comma, and others don't look 21 at it at that level of detail at all. Sometimes, 22 when it's not a first English speaker, they might 23 just make a comment, "Get an English speaker to edit 24 this," and stuff. 25 And then they make a judgment about</p>	<p>1 respectful. But that's basically the process. 2 Then what happens is you get your 3 reviews back, and the editor either tells you to 4 accept it, you know, and that's only happened to me 5 once. I sent a journal article in and they sent it 6 back to me and said, "Congratulations, we're 7 accepting your article." It was a pretty good 8 journal. Somebody actually called me, who knew it 9 was my paper, who was one of the reviewers. He 10 said, "Oh, yeah, I've reviewed that paper." I said, 11 "Great, thanks, I had no idea. Tell me, they're not 12 letting me do any revisions, what should I do? 13 Should I call them and say can I just read it 14 through one more time"? And, basically, this is 15 very early in my career, he said, "No, are you 16 kidding, you should be done with it and move on." 17 But that rarely, rarely, rarely happens. That 18 happened once, in all of the papers you see here. 19 More typically, it's revise and 20 resubmit, here's the issues that we have, and you 21 have to revise it, addressing some of the issues 22 that they raise. And sometimes they're all over the 23 place, and sometimes they're lamebrain, and 24 sometimes they're right on, you know, and you read 25 them and you think, oh, God, you know, these guys</p>
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<p>1 that paper, whether it should be accepted with minor 2 revisions, accepted with major revisions, or 3 rejected, or, you know, different journals have 4 different categories. And the two journals I had 5 had actually different categories. 6 Some journals, the first one I did, 7 Health Education and Behavior, has, not only do they 8 rate at the end what is your conclusion, but there 9 were all these other ratings that were done about 10 the theory, the methods, the writing style, the 11 organization, and then, in the final analysis, 12 what's your judgment. 13 In the new journal, I don't do all 14 those, because, in the end, if you're not putting 15 that in your review, you know, it's, like, what am I 16 going to count, like you have a four, so we gave it 17 a three, I mean, and I wasn't doing all that 18 calculation. I was reading the qualities of what 19 they said and what their bottom line was, 'cause 20 that often helped me read between the lines, 'cause 21 when somebody rejects a paper, they are usually 22 somewhat polite, but they say, "reject," right? 23 And so, you know, sometimes they're 24 not polite, and I don't ask them back, right, 'cause 25 I don't like that. I think people should be</p>	<p>1 are just hideous, they don't get it. And then you 2 read back through the paper, and you see why they 3 didn't get it, because typically it's 'cause you 4 didn't do a good enough job explaining something or 5 you left something out, right, but your initial 6 reaction is that. 7 Then you revise it, you send it back 8 in, and you explain what you changed and how you're 9 responsive. And you're a little fawning, Oh, there 10 was terrific comments, really made it a better 11 paper. And then the editor either sends it back out 12 or decides for him or herself whether or not that's 13 good enough. 14 And I would say, when I edit an 15 article, I'd say probably at least half go out a 16 second time, maybe more. Maybe it's more like 17 75 percent I send to some of the reviewers again. 18 If one reviewer says accept with minor revisions, 19 another one says accept with major revisions, I'll 20 probably send it to this person, not this person, 21 right? I'll send it to the major revision person, 22 not the other person. 23 And that's the process, and it's 24 excruciating sometimes. I mean, I have probably 25 about 20 percent of my articles that I, not that</p>

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<p>1 I've written, but that I have been the editor for, 2 25 percent, maybe a quarter of them, I send out 3 again and they have to do another round of 4 revisions, so, you know, one in four does two, 5 sometimes three revisions. There's always some last 6 things, but sometimes there's substantive revisions. 7 A lot of, you know, about 65, 8 75 percent, they do their revision, I send it out to 9 reviewers, the reviewer say, Oh, that's really good, 10 I'm ready to accept it, but there's a couple little 11 things, there's a whole other class, there's about 12 the largest number that happens to, they have to do 13 a little bit more, but it's more clarification kind 14 of stuff, or cutting a table out, or minor stuff, 15 but it gets accepted. And then there's, like I 16 said, 25 percent that actually have to maybe redo 17 analyses, that could happen too. Longwinded way of 18 telling you that it's a long arduous process that 19 takes months. 20 Q And the benefits of this process, it sounds like, 21 it's fair to say, are that you receive feedback both 22 on your methods and the way that you explained your 23 study from other people who are qualified in some 24 way in the -- 25 A That's right. That's right. And I try to find</p>	<p>1 necessarily also perfect studies, but it's the best 2 we have. And it's the national data that the 3 federal government puts out there, so, yes, we do 4 that. 5 And sometimes, like in this instance 6 on this case, there's so little out there that we 7 actually, you know, had some papers that were not 8 peer-reviewed. And occasionally, rarely, but 9 occasionally, in my case, but occasionally you'll 10 see people will cite newspaper articles. Are those 11 peer-reviewed? They are in a sense, in a 12 journalistic sense, but they're not in the sense I 13 just described, right? 14 Q Sure. 15 A So, yes, that's not an uncommon practice at all, 16 really. 17 Q Is it more common where there's a lack of 18 information to rely on nonpeer-reviewed sources? 19 A I'm not so sure that's true, because, again, if it's 20 a federal government report, that's not necessarily 21 peer-reviewed, and, you know, there's a lot of that 22 out there. You tend to see more citations of less, 23 you know, nongovernmental, nonpeer-reviewed things 24 when there's less literature about it at all to give 25 you any sense of what's going on, you know.</p>
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<p>1 somebody, who has a methodological expertise and 2 then somebody who has a substantive expertise. So 3 if I got a sexting paper, for example, I may not 4 have somebody who says I'm a sexting expert, but 5 they might say I'm an expert in, you know, internet 6 and technologies and technological communications, 7 and that sort of thing, and I might pick that 8 person. 9 If it was a survey study, I'd pick 10 somebody who, you know, had some -- most everybody 11 has some kind of survey experience. If they did 12 some fancy statistical method, I'd try to find 13 somebody who has that fancy statistical method. 14 Q Do you ever rely on nonpeer-reviewed sources in your 15 line of work? 16 A In terms of what I write? Yeah, you know, we often 17 do, because there's a lot of government reports that 18 are not peer-reviewed. And we're often saying, 19 like, yeah, youth violence is a problem, and it's a 20 public health problem, and it is the number one 21 cause of death for African American kids. It's the 22 number two cause of death for all kids. And 23 violence is the top three or four for almost all 24 ages until you get very old, so, you know, those 25 data are not peer-reviewed. Those data are not</p>	<p>1 When you're doing the first study of 2 it's kind, you know, you're looking under the rug 3 for things, because you want to sort of put it into 4 context. I mean, it's nice that you don't, because 5 then it's a really unique contribution, and that's 6 the criteria, is it a unique and significant 7 contribution. If you don't reach those two things, 8 especially in my journal, if I read something and I 9 think this is, like, old stuff, we know this 10 already, why do we need to spend anymore journal 11 pages on this, or it's not something new or 12 interesting twist to it, you know, it doesn't have a 13 chance. 14 So, you know, that's a good thing, 15 but it's a bad thing, because you have nothing to 16 base it on. You have nothing to kind of juxtapose 17 what you're doing and why you're doing it. And 18 that's always good, because you want to, our 19 business is all about programmatic research. It's 20 all about one study building on another and a body 21 of evidence, you know. 22 I mean, I've been thinking about that 23 a lot. I mean, this is why Silver was so good at 24 predicting the outcome, is what he did is he took 25 all these surveys and he used the surveys as the</p>

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<p>1 data. I don't think he collected any data on his 2 own. He looked at the surveys, looked at their 3 standard of error, and had an algorithm for figuring 4 out, well, if this is the range of surveys, that's 5 my sample, then the range of outcomes could be this, 6 and if I calculate, you know, error variance and all 7 that, this is what I'm guessing, and he had a 8 probability. And as he got closer and closer, he 9 got closer and closer to his probability; I mean, 10 this is why he's a star, 'cause he predicted it to 11 the "T."</p> <p>12 Q You just used a phrase that I wanted to ask you 13 about, I think you said "standard of error"; is this 14 the same thing as a margin of error?</p> <p>15 A Yeah, right, it is. Statistically speaking, it's a 16 slightly different thing, but it is. You're going 17 to ask me the formula, I'm not going to be able to 18 give that to you, but, yes, a standard error is what 19 the plus and minus margin is based on. It's the 20 fundamental piece that is used to calculate it.</p> <p>21 Q And the plus or minus margin of, what?</p> <p>22 A Of error of your estimate.</p> <p>23 Q Okay.</p> <p>24 A So in the polling, which is not peer-reviewed, by 25 the way, in the polling for the presidential</p>	<p>1 do some math at times, but I don't like that 2 attitude.</p> <p>3 A I didn't mean to disparage the profession. It's 4 just, I mean, it's what I do for a living. It's not 5 what you do for a living.</p> <p>6 Q Correct.</p> <p>7 A That's what I mean.</p> <p>8 Q Sure. Confidence interval was another term I've 9 read that I'm interested in hearing more about from 10 you. So the confidence interval is the percentage 11 at which you are certain that the result will fall 12 within this particular range; is that correct?</p> <p>13 A Yeah, sure. Yes.</p> <p>14 Q Is there a better way to say that?</p> <p>15 A I don't know. You know, I'm hesitating partly 16 because it kinda depends what you're studying. You 17 know, when you're looking at a relationship between 18 two variables, 'cause, like, in the polling that 19 they do like for the presidential election, or 20 whatever, there's not two variables. It's, like, 21 this is what we estimate people are predicting are 22 going to vote, and then this is why we think the 23 outcome is going to be within that range.</p> <p>24 When you look at it for between two 25 variables, you're going to say, is that correlation?</p>
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<p>1 election, you know, they'll say plus or minus, this 2 is the error rate that we think we are. So when 3 they say it was too close to call, two or three 4 percentage points is too close to call, they usually 5 say, because it can go in either direction.</p> <p>6 And what you do is plus or minus, 7 right, so if, you know, 20 percent are saying "X" 8 and it's plus or minus two percent, then 95 percent 9 confidence interval, and 95 percent probability that 10 you will not make a type one error, is 18 to 22, but 11 the mean is 20, and that's what we're going to 12 report. The 95 confidence interval is one in 20 13 chance of making type one error, which is a 14 false-positive.</p> <p>15 Q So, in other words, with a 95 percent confidence 16 interval and a margin of error of plus or minus two, 17 when the estimate is 20 percent, you're 95 percent 18 certain that the result is between 18 and 22; is 19 that correct?</p> <p>20 A Um-hum. Yes.</p> <p>21 Q It's been awhile since I've taken statistics, so I'm 22 trying to refamiliarize myself with these concepts.</p> <p>23 A Beside, you're an attorney. You don't pay attention 24 to this stuff in the same way.</p> <p>25 Q A lot of attorneys say we don't do math. I try to</p>	<p>1 And it could be eight variables, 12 variables, 2 right? Is that correlation, or the association 3 among those variables, is it within that 20 percent, 4 within that 95 percent confidence interval, which is 5 one in 20 that you'll say that it's significant 6 when, in fact, it isn't.</p> <p>7 Q And is a 95 percent confidence interval the optimal 8 confidence interval?</p> <p>9 A It's the paradigmatic one. It's the one we all hang 10 our hat on; however -- I mean, in a way, I'm going 11 to shoot myself in the foot here -- however, there's 12 lots of debates; in fact, a former chair of our 13 philosophy department talks about, it's the 0.05 14 level, "p" is less than 0.05. That's the paradigm. 15 That's the gold standard. That's what we all have 16 used. And so we continue to use it, because 17 somebody came along and said that's the one we 18 should use, but a lot of people try to sneak in and 19 talk about 0.01 as, so that's the 90 percent 20 confidence interval.</p> <p>21 And, frankly, when you think about 22 it, if you were going to bet on a horse, go to the 23 race track, and you were 90 percent confident that 24 this horse was going to win, not that you're a 25 gambling person, not you personally, but the general</p>

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<p>1 person, you know, you would say I think I'll bet on 2 it, you know, or if I'm 95 percent confident that, 3 if I go that way, or 90 percent confident if I go 4 that way it's going to take twice as long, I'm going 5 to go this way, right, even though that'll cut my 6 time even further if I could go that way, but I'm 95 7 percent sure, or 90 percent sure, or 85 percent 8 sure. But for some reason we use 0.05, because 9 that's what we tolerate, and that was, long ago, 10 somebody, and I don't know the history of that, has 11 created that as the magic number.</p> <p>12 Q And when you say, "we," you mean people in academia.</p> <p>13 A Behavioral scientists, statisticians. It's more 14 behavioral scientists. Statisticians are numbers 15 people, and, you know, we're substantive. And I 16 don't mean that they're not substantive, I didn't 17 mean to say that.</p> <p>18 But we are interested in the 19 association of, for example, parental support and 20 youth violence, and so how do we know there isn't an 21 association? Well, the field has accepted 22 95 percent, so if my correlation is in between that 23 95 confidence interval, I can now talk about it 24 legitimately, it's acceptable. But I can still, one 25 in 20, I have a five percent of actually being</p>	<p>1 In fact, as an editor, one of the 2 things that I require is a discussion of study 3 limitations and why it's not a fatal flaw of the 4 study, so, you know, I do that in my studies, too; 5 if you read my paper, you saw that.</p> <p>6 Q The limitations usually seems like it's the last 7 section of an article describing a study.</p> <p>8 A Typically. I have to say, I try not to do this. I 9 may not always succeed, but I don't like to look 10 back and read what I've done, 'cause it's kinda like 11 Woody Allen. I don't know if you know this, but 12 Woody Allen doesn't look back at his movies. He 13 said, I guess, he did it once, and it was like he 14 was horrified. And, actually, I did the same thing.</p> <p>15 I looked back at one of my papers, 16 because people seemed to be misquoting me, and then 17 I looked back, and I'm, like, oh, I understand now 18 why they misquoted me, why they're misquoting me, 19 because they're not really misquoting me, even 20 though that's not what I meant. So I subsequently 21 wrote some other papers about that, but what I also 22 became, and I think with my students that I'm 23 notorious for this, is I'm pretty stickler for what 24 words you actually put on the piece of paper, and 25 they don't always get why. So, you know, I don't</p>
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<p>1 wrong, hence the importance, and this is what I 2 really stress in my classes, hence the importance of 3 multiple studies, right?</p> <p>4 And so you look at multiple studies, 5 and if five studies have found the range to be, you 6 know, in that 25 percent confidence interval, then 7 you can probably more confidently, I would say, more 8 confidently, say that parental support is correlated 9 with violent behavior, negatively presumably, right; 10 more support, less violent behavior.</p> <p>11 A single study, while I write about 12 that, I'm adding to the literature, you know, is 13 sometimes, you know, well, let's get more evidence 14 for that. It might depend on how you measure it, 15 might depend some issues about your sample. Every 16 sample could be, you know, questioned.</p> <p>17 In fact, that's another point I make 18 in my methods class, and, that is, there's no 19 flawless studies. There are no perfect studies. 20 And that's why programmatic research is so 21 important, right, because every study is -- you 22 could shoot holes in every study, because it might 23 be the way you answer the question, your response 24 rate, your statistical technique; I mean, there's 25 all sorts of things that, you know, are addressed.</p>	<p>1 really look back.</p> <p>2 But I try to not have the limitations 3 at the end, because I don't want someone to leave 4 reading the paper with, oh, the limitations. And I 5 tell that to my authors, too, when I say, okay, add 6 limitations, but, I think you might agree, that's 7 almost my language, I think you might agree, it 8 might be better to end with a summary of what the 9 contribution of the paper is rather than on the bad 10 note of what the limitations are, because all 11 studies have limitations. All studies have 12 limitations.</p> <p>13 Q Sure. It's a stylistic choice about how you write 14 your article.</p> <p>15 A Right. Exactly. Sorry if I'm talking too much.</p> <p>16 Q Nope. Another term you use, that I've come across 17 and was interested in finding out more about, is 18 sample of convenience, and I think you used that in 19 reference to some of the studies you've done, the 20 population of the study was a sample of convenience; 21 what is a sample of convenience?</p> <p>22 A Well, you know, I have a different attitude about 23 this than, what I call, strict constructionists. In 24 the law profession, a strict constructionist around 25 the Constitution is what did they really mean when</p>

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<p>1 they wrote the damn thing? "They," the founding</p> <p>2 fathers, and the darn thing, the Constitution, which</p> <p>3 is really wonderful, is, you know, there are, and</p> <p>4 I've had this attitude for a long time, you know, a</p> <p>5 strict constructionist statistician, for example,</p> <p>6 would say these are the assumptions that we must</p> <p>7 make to use these statistics, and, if you don't have</p> <p>8 those assumptions, you cannot do those statistics.</p> <p>9 The field and the journal articles in</p> <p>10 the United States and around the world are filled</p> <p>11 with violations of those assumptions. I could</p> <p>12 probably pick up the most prestigious journals that</p> <p>13 exist and show you that those assumptions are</p> <p>14 missed.</p> <p>15 And one of the reasons why is because</p> <p>16 statistics, some of the multivariate statistics and</p> <p>17 parametric statistics, which are used to sort of</p> <p>18 take from your sample and assume that you have some</p> <p>19 population that you're referring to, they're robust</p> <p>20 against many of the assumptions. If you have too</p> <p>21 many, it's not so good, but, you know, if there's,</p> <p>22 you know, a few, one thing wrong, one assumption</p> <p>23 that's incorrect, then you could probably overcome</p> <p>24 that and it's not the end of the world, okay?</p> <p>25 That's what I'm referring to as a strict</p>	<p>1 right?</p> <p>2 You could be in a neighborhood where</p> <p>3 there's very few male head of households, then what</p> <p>4 do you do? Then all of a sudden there's a little</p> <p>5 hole in your geographic distribution of your date,</p> <p>6 right? You live with that. You have to live with</p> <p>7 that, 'cause, you know, we're limited by our sample</p> <p>8 frame, and -- you know what that is, right?</p> <p>9 We used to do random digit dial.</p> <p>10 Well, random digit dialing doesn't work so well,</p> <p>11 especially these days, because of cell phones. I</p> <p>12 don't know what your area code is, but I bet it's</p> <p>13 not (202). Is (202) Washington D.C.?</p> <p>14 Q It is, yeah.</p> <p>15 A I used to live there. I can't tell you how many</p> <p>16 people I know that I call them, I'm, like, where did</p> <p>17 you used to live, which is where they got their cell</p> <p>18 phone, they never changed their number, 'cause it</p> <p>19 doesn't matter anymore. That was different when I</p> <p>20 was your age, right? I mean, people had landlines</p> <p>21 and that's where they lived, and then you could do</p> <p>22 random digit dialing, but there are lots of</p> <p>23 limitations with that as well.</p> <p>24 Mail surveys are notoriously not</p> <p>25 doing it. So we were left, in terms of the study,</p>
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<p>1 constructionist.</p> <p>2 One of them, for example, is</p> <p>3 something called multivariate normality, that all</p> <p>4 the variables are normally distributed. Well, you</p> <p>5 know, that's very rare. I mean, the strict normal</p> <p>6 distribution is where the mean, the median, and the</p> <p>7 mode, and it's the perfect bell curve. Data don't</p> <p>8 come out that way. We're human beings, you know, it</p> <p>9 doesn't usually come out that way, because you can't</p> <p>10 have the whole population. You're always stuck with</p> <p>11 some way to get data from people that hopefully</p> <p>12 represents the population you want to know something</p> <p>13 about. There is no perfect sample frame, there just</p> <p>14 isn't.</p> <p>15 Even if you knocked on every door in</p> <p>16 the neighborhood, you know, people might not be</p> <p>17 home, so you have to have algorithms, well, if</p> <p>18 they're not home, what do you do? When you go door</p> <p>19 to door, there's a whole protocol that you use.</p> <p>20 You're looking for the man of the household, and you</p> <p>21 knock on the door, there's no man there, what do you</p> <p>22 do? You go to the next house. If you get 'em, you</p> <p>23 go to the next block. And there's all sorts of</p> <p>24 algorithms, but there's all sorts of problems, and</p> <p>25 there's always limitations, and stuff happens,</p>	<p>1 and I've kind of anticipated some of your questions</p> <p>2 later, so we were left with, you know, let's try</p> <p>3 this different method, because, going forward,</p> <p>4 phones are going to be less likely, 'cause people</p> <p>5 will look at their phone, they'll see they don't</p> <p>6 recognize the number, and they're not going to</p> <p>7 answer it, you know, so which is also a new</p> <p>8 technology, right? Even at home they can do that:</p> <p>9 I don't know who that is. I mean, my mentor, I have</p> <p>10 to start talking into his answering machine for him</p> <p>11 to pick up the phone, 'cause if he doesn't recognize</p> <p>12 the number, he says now he's getting used to</p> <p>13 recognizing my area code, but, you know, anyway,</p> <p>14 it's an interesting phenomenon.</p> <p>15 I don't know why I kinda went into</p> <p>16 this. This is what happens to me when I lecture</p> <p>17 sometimes, too, but, you know, methodologically, you</p> <p>18 know, we have strict constructionist, and we have</p> <p>19 people, who are a little bit loser, and the reality</p> <p>20 is somewhere in between. The ideal is virtually</p> <p>21 impossible, I might even argue impossible, 'cause</p> <p>22 let's say you did random digit dialing, what about</p> <p>23 people who don't have phones? You can't generalize</p> <p>24 to them.</p> <p>25 Q When you said the ideal of obtaining the perfect</p>



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<p>1 sample --</p> <p>2 A The perfect sample, the perfect study, which is,</p> <p>3 again, why, which is where the train of thought was</p> <p>4 going, which is exactly why this idea of</p> <p>5 programmatic research and the idea of multiple</p> <p>6 studies, I mean, that's when we get confident.</p> <p>7 When we have multiple studies more or</p> <p>8 less saying the same thing, and even if there's a</p> <p>9 range, you can actually look at those studies and</p> <p>10 calculate the standard error of that range, and the</p> <p>11 variation of that range. That's what Silver did,</p> <p>12 right?</p> <p>13 So think about this for a minute.</p> <p>14 It's a little bit different, and it's hard for me to</p> <p>15 get to the Ph.D. students, so, I mean, you're a</p> <p>16 smart person, obviously, but you don't even think in</p> <p>17 these ways, but, you know, these guys try to think</p> <p>18 in these ways. When we have a variable, let's say</p> <p>19 sexting; you know, let's say we asked about sexting</p> <p>20 and we asked not yes, no, but we asked the question</p> <p>21 of, you do it a little bit, you do it a little bit</p> <p>22 more, you do it about average, you do it a little</p> <p>23 bit more than average, you do it a lot, on a scale</p> <p>24 of one to five.</p> <p>25 Well, there's going to be a range of</p>	<p>1 interested in the prevalence of sexting than we were</p> <p>2 with does this relate to, you know, mental health</p> <p>3 problems or psychological, or does it relate to sex</p> <p>4 risk.</p> <p>5 Q Sure.</p> <p>6 A That was our question, really. But, yes, your</p> <p>7 answer is "yes."</p> <p>8 Q Let me ask it in a different context. If you had,</p> <p>9 say you had ten studies that all were trying to</p> <p>10 determine the prevalence rate for young adults and</p> <p>11 marijuana use, and the range of prevalence rates</p> <p>12 spanned, you know, maybe 20 --</p> <p>13 A From zero to 100.</p> <p>14 Q Well, maybe a little bit more --</p> <p>15 A 20 to 50.</p> <p>16 Q Yeah, somewhat like a limited set, and they were,</p> <p>17 you know, spread out over that range, what would you</p> <p>18 do to, would you be able to make an estimate of the</p> <p>19 prevalence rate of marijuana use among young adults?</p> <p>20 A This is not work that I do, but there is an approach</p> <p>21 to do what you just described. And I'm pretty sure,</p> <p>22 although he's never shared it, this is what Silver</p> <p>23 has done, is he looks at the range of opinions, of,</p> <p>24 you know, how you're going to vote, he looks at</p> <p>25 everybody's studies, and there's going to be some</p>
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<p>1 people who give that score, so you can get a mean</p> <p>2 across people. So you have 100 people and they've</p> <p>3 answered this question, and the mean would represent</p> <p>4 is the best number to represent that 100. It might</p> <p>5 be a number that none of them have, but it's the</p> <p>6 best number that represents the central tendency of</p> <p>7 that group.</p> <p>8 Then there's the measure of</p> <p>9 variation, which is variance, what's the variance</p> <p>10 around that number? And if there's zero variance,</p> <p>11 everybody has that number, which is impossible,</p> <p>12 because we're human beings, right? The variation</p> <p>13 across that is, we typically call it standard</p> <p>14 deviation, and, you know, that's the variation</p> <p>15 around that mean, and that kinda gives you the sense</p> <p>16 of that variable in that population.</p> <p>17 Q I wanted to go back when you were talking about the</p> <p>18 importance of having multiple studies and how that</p> <p>19 can bolster you trying to determine a prevalence</p> <p>20 rate, correct, right?</p> <p>21 A Um-hum.</p> <p>22 Q Multiple studies can bolster the --</p> <p>23 A Prevalence rates are also just the correlations or</p> <p>24 the findings, right? Again, you know, the study</p> <p>25 that we actually did in sexting, we were less</p>	<p>1 better than others, but the range will come out</p> <p>2 there, and then he knows their standard error, or</p> <p>3 their plus or minuses, and he has some algorithm</p> <p>4 that he's used to, and I don't think it's magical, I</p> <p>5 haven't looked it up, to calculate that, so the</p> <p>6 answer is, "yes."</p> <p>7 Now, back up for a minute, is how</p> <p>8 many studies do you need to make a good estimate,</p> <p>9 and what are the qualities of the studies? When</p> <p>10 people do literature reviews, and they're doing</p> <p>11 literature reviews to actually get at some sense of</p> <p>12 what is the range based on these series of studies,</p> <p>13 they have some criteria they use to select them.</p> <p>14 They might, for example, not include</p> <p>15 any nonpeer-reviewed articles, and that's typical,</p> <p>16 actually. I don't think anybody would do a sexting</p> <p>17 study at this point, because there's just too few</p> <p>18 studies, right? And, you know, when Silver did his</p> <p>19 thing, it might have been, you know, there might</p> <p>20 have been 20, or 15, or 10 studies, or polls.</p> <p>21 When people do these kinds of</p> <p>22 reviews, there's usually, you know, tens, maybe</p> <p>23 hundreds of studies that they then glean to say</p> <p>24 we've picked the cream of the crop, the best ones</p> <p>25 methodologically based on these criteria. And even</p>

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<p>1 if they may only do 30 of those, they're sort of</p> <p>2 cherry-picking the tops, and then they're making an</p> <p>3 estimate from that.</p> <p>4 Q Okay.</p> <p>5 A Does that make sense?</p> <p>6 Q It does. Are there other criteria that someone</p> <p>7 would look at, other than whether the article is</p> <p>8 peer-reviewed?</p> <p>9 A Well, yeah, and it depends on what they're doing.</p> <p>10 So if they're looking at the effectiveness of an</p> <p>11 intervention, let's say, of a strategy, of a change</p> <p>12 strategy, they might pick only ones that have done,</p> <p>13 you know, a controlled experiment. They won't look</p> <p>14 at sort of a qualitative assessment, or they won't</p> <p>15 look at a one-sided analysis. They'll say, We're</p> <p>16 going to get rid of all those; we're only going to</p> <p>17 look at the ones that have a randomized controlled</p> <p>18 design.</p> <p>19 Rarely are there that many that are</p> <p>20 randomized control designs. So what they do is they</p> <p>21 try to say control group designs. If they don't</p> <p>22 have those, or very many of those, they end up with</p> <p>23 only five of those, they might expand their criteria</p> <p>24 so they can have a larger data set to look at. Then</p> <p>25 they talk about that, well, we didn't have very many</p>	<p>1 convenience side. And, you know, it's sort of like,</p> <p>2 it's kind of like the supreme court justice, and I</p> <p>3 don't remember who it was -- maybe you do, or you</p> <p>4 do, I don't know -- who said, "I don't know what</p> <p>5 pornography is, I can't define it, but I know it</p> <p>6 when I see it." So I know a convenience sample when</p> <p>7 I see it.</p> <p>8 I would argue, though, from a strict</p> <p>9 constructionist point of view that every sample has</p> <p>10 some convenienceness attributes. So a very</p> <p>11 convenient sample would be you just asking the</p> <p>12 people that it's easy to get, that you see during</p> <p>13 the day, or you sit on the street corner; there's no</p> <p>14 sort of sense of it's some kind of systematic</p> <p>15 approach, right? I mean, there's systematic samples</p> <p>16 that a strict constructionist would say, That's a</p> <p>17 convenient sample. Well, yeah, it's a convenient</p> <p>18 sample.</p> <p>19 Telephone surveys are convenient</p> <p>20 samples, strictly speaking, because if you're using</p> <p>21 the telephone, you gotta have a telephone, and who</p> <p>22 are the people who don't have telephones, right? If</p> <p>23 they're randomly represented in the population,</p> <p>24 doesn't really affect you so much, but if they tend</p> <p>25 not to have money, they tend to be poor people, then</p>
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<p>1 that had the top of the line kind of design, so this</p> <p>2 might be eliminated, but this is what we know at</p> <p>3 this moment.</p> <p>4 Q But it sounds like the important thing is that, when</p> <p>5 you're selecting the studies, is to have some sort</p> <p>6 of criteria and make sure each of the studies you</p> <p>7 selected meets those criteria.</p> <p>8 A Correct. And those criteria, like I said, could</p> <p>9 vary. If it's a survey study, it might be a study</p> <p>10 that doesn't include people with blue hair, or it's</p> <p>11 a study, studies have to be at least samples of 200</p> <p>12 or more, or something. It can't be so unique that,</p> <p>13 it's not just your own friends that you include to</p> <p>14 get an assessment of, you know, how wonderful you</p> <p>15 are. You know what I mean? So there would be</p> <p>16 different criteria about how representative the</p> <p>17 sample might be, or, you know, something like that.</p> <p>18 Q I wanted to go back. I think I asked this question.</p> <p>19 I just wanted to make sure I understood your answer.</p> <p>20 So what to you, in the way that you may not be a</p> <p>21 strict constructionist, what to you is a sample of</p> <p>22 convenience?</p> <p>23 A Well, I mean, I'm saying I'm not a strict</p> <p>24 constructionist, but I like to think myself closer</p> <p>25 to that side than, you know, the complete</p>	<p>1 you have a sample that's not representing those</p> <p>2 people.</p> <p>3 You know, behavioral science is an</p> <p>4 interesting thing. People think, oh, it's a soft</p> <p>5 science, it's easy. It's actually more difficult,</p> <p>6 because we have to defend it more. You know, if we</p> <p>7 were doing something like, you know, the principles</p> <p>8 of a material, you know, it's easy.</p> <p>9 When I was talking to my friends, who</p> <p>10 are my softball teammates, they're astronomers, I'm,</p> <p>11 like, How do you know that that's all there are, you</p> <p>12 know, metals, couldn't we discover metal out there?</p> <p>13 They're, like, What, are you crazy? We know the</p> <p>14 atomic weight of things, Marc. I said, Well, how do</p> <p>15 you know about that star that's, like, you know,</p> <p>16 four billion miles away or 100 billion light years</p> <p>17 away? Well, spectrometry, and we know what</p> <p>18 different colors would be relating to the periodic</p> <p>19 table, so we know that's an iron planet, we know</p> <p>20 that one is made of this, and we know these</p> <p>21 characteristics. We may not be exactly right, but</p> <p>22 that's how we know.</p> <p>23 Well, people, I mean that's</p> <p>24 impossible. And, you know, you do a door-to-door</p> <p>25 survey, well, what about the hermits who don't live</p>

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<p>1 in the world? You could argue, well, they're really 2 special different people anyway, and I would argue 3 that, but a strict constructionist would say you 4 gotta get some of them in your sample, right, 5 because, otherwise, it's not a strictly random 6 sample.</p> <p>7 So everything is how far from that 8 are you willing to live with to make, you know, and 9 so I live with it somewhat further away than others. 10 My studies, I built my career on this study up in 11 Flint, you know, that was, you know, a very unique 12 sample. It was 850 kids, who had a "B" average or 13 lower, but, basically, what I would say, in the 14 convenience sample, is this is who it relates to; it 15 relates to urban kids, who are not doing well in 16 school. Actually, it relates to urban kids, who are 17 not the best students in the school, you know, so 18 it's a little broader.</p> <p>19 So what I do is, even when I have a 20 very convenient sample, which I don't usually have 21 very, very convenient samples -- I don't do the 22 street corner type stuff -- what I do is I just make 23 sure, if that's my sample frame, that's who I'm 24 going to generalize to, and I try not to generalize 25 to everybody else, right? And I try to be careful</p>	<p>1 and there's reasons for that. One, is the way we 2 did our sampling. In other words, we started with 3 people, who use the internet, but we could have very 4 easily gotten people who didn't use the internet, 5 right, or didn't use the cell phones, or don't use 6 those things, you know, and we corrected for that.</p> <p>7 So I actually would say ours goes a 8 little bit beyond, you know. In terms of is it the 9 perfect sample? No. But, actually, we're going to 10 use the technique again. It's a great way to get a 11 national sample.</p> <p>12 Q And just so I'm clear on the sample of convenience, 13 it sounds like what you're saying is that there's 14 almost like a spectrum.</p> <p>15 A Yes.</p> <p>16 Q And so at one end is the perfect random sample 17 and --</p> <p>18 A Which is almost impossible to attain.</p> <p>19 Q Almost impossible, so just depends on where your 20 study falls along that spectrum.</p> <p>21 A That's right.</p> <p>22 Q It depends on how convenient the sample was.</p> <p>23 A Exactly. A very convenient sample, for example, 24 would be, and there's a lot of criticism in the 25 literature, would be a sample of Psych 100 students,</p>
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<p>1 about that.</p> <p>2 One of the things I say is, The 3 limitation of our study is this. To go to the 4 sexting paper, you haven't asked me, you might, I 5 would say our sample, because the way we sample it, 6 it relates to only young adults who use a computer, 7 who are connected to internet, right?</p> <p>8 I would argue that those are, 9 however, the people, who are more likely to sext. I 10 mean, those things are correlated, those things are 11 highly correlated. Cell phone, texting, in general, 12 computer connection, those things are correlated.</p> <p>13 There's very few people who don't do both. My wife 14 does both and she still has the Spock Star Trek flip 15 phone and she texts and she uses the internet, 16 so. . .</p> <p>17 Q But it's fair to say you should, it's important to 18 understand the sample frame, as best as you can, and 19 to be careful not to generalize the findings --</p> <p>20 A Beyond that.</p> <p>21 Q -- beyond the frame.</p> <p>22 A Right. You could sometimes make a case for why you 23 think that frame is more representative than just 24 that frame, and I would, for our study, honestly. I 25 wouldn't go too widely beyond, but it's probably --</p>	<p>1 right? I've done one study with that, maybe two, in 2 my career. One was my dissertation, another one was 3 something it was appropriate for.</p> <p>4 If you're interested in, you know, 5 undergraduates, that is the population. I tend to 6 not be so interested in undergraduates, which is why 7 I don't sample that, but if you do, if you are, that 8 might be an appropriate place to go. I would argue, 9 though, if you want to go to classes, don't go just 10 to psychology classes, go to economics and go to 11 engineering, so you can get a range of kids there, 12 too, but. . .</p> <p>13 Q Because even within an undergraduate population --</p> <p>14 A There's variation, right. That's right.</p> <p>15 Q So when you said that the samples of undergraduate 16 psychology classes are very convenient, does that 17 mean, if a person had findings from that type of a 18 sample, they should be careful not to generalize 19 beyond undergraduate students in psychology classes?</p> <p>20 MR. BAUMGARDNER: Objection. You can 21 go ahead and answer.</p> <p>22 A It would depend on the question. If you were 23 studying how a brain operates, right, for a person 24 who is of a range of normal intelligence and, you 25 know, abilities, you know, not necessarily the 32 on</p>

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<p>1 the ACT kind of person, but somebody who is</p> <p>2 functioning well, and that's what you're studying,</p> <p>3 like memory processes, you could generalize beyond.</p> <p>4 You wouldn't be able to generalize to somebody with</p> <p>5 Alzheimer's, or somebody my age, because we just</p> <p>6 have more wires that cross and whatnot, so I</p> <p>7 wouldn't even say carte blanche what you said was</p> <p>8 necessarily true.</p> <p>9 (Discussion off the record.)</p> <p>10 BY MR. SWINTON:</p> <p>11 Q If there was a prevalence rate of marijuana use</p> <p>12 among young adults, for example, based on a study of</p> <p>13 undergraduates in psychology classes, is that</p> <p>14 prevalence rate generalizable only to undergraduates</p> <p>15 in psychology classes?</p> <p>16 MR. BAUMGARDNER: Objection. Go</p> <p>17 ahead.</p> <p>18 A Strictly speaking, probably, but you could probably</p> <p>19 make a case, depending on what university you're at</p> <p>20 and how many Psych 100 classes you've collected data</p> <p>21 from, whatnot, yes. What happens is, at least this</p> <p>22 is also what I do with my own work, is I try to make</p> <p>23 a logical rationale for why it might either be an</p> <p>24 underestimate or an overestimate, or why it might be</p> <p>25 an accurate estimate.</p>	<p>1 this many we reached, you know. And so what's the</p> <p>2 response rate from the number of people reached is</p> <p>3 different than the response rate from the number of</p> <p>4 phone calls I made.</p> <p>5 So, for example, if I know I'm going</p> <p>6 to make 300 phone calls, and I end up with 10</p> <p>7 people, my response rate would be 0.03, I think, if</p> <p>8 I did the math right. But if the other 250 were all</p> <p>9 the businesses that I just happened to be calling,</p> <p>10 you know, or whatever, then my response rate might</p> <p>11 be 10 over 40, or 10 over 20, you know, or 10 over</p> <p>12 12. So the response rate -- but, strictly speaking,</p> <p>13 it's responses divided by sample frame.</p> <p>14 Q And is it an important measure to have when you're</p> <p>15 looking at a study?</p> <p>16 A Sometimes, when you can. Sometimes you don't know</p> <p>17 exactly what the response rate is because of the</p> <p>18 nature of the study that you've done, but response</p> <p>19 rates are important, yes.</p> <p>20 Q And so what do they tell you about the way the study</p> <p>21 was conducted?</p> <p>22 A They can tell you how representative your sample is</p> <p>23 of your sample frame, but I wouldn't say that not</p> <p>24 knowing a response rate would mean the study is not</p> <p>25 useful.</p>
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<p>1 So in the example of marijuana use</p> <p>2 for kids, you know, or -- I say kids, for young</p> <p>3 adults in college -- I think you could probably say</p> <p>4 it's generalizable to kids in college, but, you</p> <p>5 know, it might be an underestimate, I don't know. I</p> <p>6 don't know the answer to that question. I'm going</p> <p>7 to give you a quiz when we're over, by the way.</p> <p>8 (Discussion off the record.)</p> <p>9 BY MR. SWINTON:</p> <p>10 Q One more question about some terminology, the term</p> <p>11 response rate; what is a response rate?</p> <p>12 A Response rate is also not always clear. I'm trying</p> <p>13 to think of, in my class, how I defined response</p> <p>14 rate. I mean, strictly speaking, the response rate</p> <p>15 is the number of people you've got to answer you,</p> <p>16 whatever way you're doing it, telephone, whatever,</p> <p>17 divided by the size of your sample frame; however,</p> <p>18 sometimes that sample frame is not known exactly.</p> <p>19 And in terms of telephone surveys,</p> <p>20 for example, you know, if you're doing random digit</p> <p>21 dialing and you call Fred's Pizza, but you don't</p> <p>22 want to talk to a business, does that count as a</p> <p>23 response, non-response, irrelevant? And so what you</p> <p>24 tend to do is -- even response rates are: We made</p> <p>25 this many phone calls; this many were irrelevant;</p>	<p>1 Q If there is a non-response rate, is there a number</p> <p>2 that, a certain percentage, that you look for that's</p> <p>3 optimal, like there was with the confidence</p> <p>4 interval?</p> <p>5 A Well, again, it depends on your method. I mean, you</p> <p>6 know, acceptable for phone surveys these days?</p> <p>7 20 percent. I mean, that's one of the reasons why</p> <p>8 we did our study, because that's, you know, one in</p> <p>9 five people that you get on the phone? I mean,</p> <p>10 people don't want to talk to you on the phone for a</p> <p>11 survey 10 minutes, 15 minutes.</p> <p>12 I mean, I don't know how many phone</p> <p>13 calls you ever got like that. Sometimes you don't</p> <p>14 know why they're calling; you know, there's a lot of</p> <p>15 distrust about research. There's all sorts of</p> <p>16 reasons why people don't respond, you know, but 20,</p> <p>17 25 percent is about as good as you can get with</p> <p>18 telephone surveys these days.</p> <p>19 Mail surveys, if you get 50 percent,</p> <p>20 you could probably publish that. So response rates</p> <p>21 vary. I mean, I don't know that I want to go on</p> <p>22 record as saying what's the ideal response rate. It</p> <p>23 kind of depends on your method.</p> <p>24 And I have to say our method, you</p> <p>25 know, we don't know the response rate necessarily,</p>

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<p>1 but that doesn't mean what we have isn't useful and</p> <p>2 representative of some population, right? I don't</p> <p>3 think that not knowing a response rate makes a study</p> <p>4 irrelevant. And I think you could probably find</p> <p>5 lots of examples in the literature where that was</p> <p>6 the case. I'll just stop there.</p> <p>7 Q Okay. Another thing I wanted to ask you about was</p> <p>8 using secondary sources. In your field, when you're</p> <p>9 drawing a conclusion about something, is it</p> <p>10 important to -- let me ask the question in a</p> <p>11 different way. In your field, in behavioral</p> <p>12 sciences, is it important to verify that secondary</p> <p>13 sources are properly using primary source material?</p> <p>14 MR. BAUMGARDNER: Objection. Can you</p> <p>15 just define "secondary sources," 'cause I know that</p> <p>16 has kind of a meaning in a legal context, just to</p> <p>17 make sure that --</p> <p>18 A I could tell you what it means -- tell me what you</p> <p>19 really mean.</p> <p>20 BY MR. SWINTON:</p> <p>21 Q I'm thinking a secondary source would be, an example</p> <p>22 would be a study that you didn't perform, so if you</p> <p>23 were looking at an article about a study that you</p> <p>24 weren't involved in in any way.</p> <p>25 A Okay. 'Cause, in our field, is people who do and</p>	<p>1 Primary data analysis is when you</p> <p>2 collect the data yourself and then analyze the data.</p> <p>3 My study of the Flint kids, I told you, since 1994,</p> <p>4 the first four years has now been made public at the</p> <p>5 ICPSR, which is housed at the University of Michigan</p> <p>6 in the Institute for Social Research, and anybody</p> <p>7 who analyzes that data that is basically going to be</p> <p>8 doing secondary data analysis.</p> <p>9 So when you say that, that's what I'm</p> <p>10 talking about, and lots of people do that. Lots of</p> <p>11 people also then look at other peoples' research to</p> <p>12 make a case for their own research. That's another</p> <p>13 source, another way maybe you might be thinking of,</p> <p>14 and we all do that. We have to do that. That's</p> <p>15 part of our science, because, what I was saying to</p> <p>16 you before about, you know, how does your science</p> <p>17 add and make a significant contribution, but how</p> <p>18 does it also relate to what we know.</p> <p>19 BY MR. SWINTON:</p> <p>20 Q Sure.</p> <p>21 A Your philosophy person would say, well, that means</p> <p>22 we're always going to be limited by what we know</p> <p>23 because we're always looking at what we already</p> <p>24 know, and there's actual truth to that. And this is</p> <p>25 why Thomas Kuhn wrote the book Structure of</p>
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<p>1 analyze Uniform Crime Report data. Do you know what</p> <p>2 that is?</p> <p>3 Q I don't.</p> <p>4 A The FBI estimates, you know, crime in the United</p> <p>5 States, and where do they get the data? I mean,</p> <p>6 they actually, police chiefs are supposed to report</p> <p>7 the data. Well, not all police chiefs always report</p> <p>8 the data. They don't have really any way to make</p> <p>9 them do that. So they get the data back from the</p> <p>10 police chiefs, who send it to them by the date that</p> <p>11 they're supposed to get it. And you can imagine the</p> <p>12 difference of those data across different places.</p> <p>13 That data, by the way, response rates</p> <p>14 are not necessarily known or calculated. That</p> <p>15 Uniform Crime Report is data that guides all sorts</p> <p>16 of policies in the United States, and in the states</p> <p>17 individually, and I don't think locally probably,</p> <p>18 'cause people only care about local data. Something</p> <p>19 else about a national data set that's sort of</p> <p>20 interesting, is it may not represent any community</p> <p>21 where you're actually doing work. But, anyway, that</p> <p>22 data set now exists, and is available,</p> <p>23 de-identified, of course, and people analyze that</p> <p>24 data. That's called secondary data analysis, in my</p> <p>25 business.</p>	<p>1 Scientific Revolutions, because he said, when</p> <p>2 knowledge really gets developed, is when we come to</p> <p>3 a dead end with our knowledge, right?</p> <p>4 I don't think we'll run into that</p> <p>5 problem. That was certainly true of the physical</p> <p>6 sciences. I don't think we'll so much run into that</p> <p>7 problem with human beings, because there's new</p> <p>8 technologies; we're starting to map the brain. I</p> <p>9 mean, I think the next generation is going to be</p> <p>10 able to look at parts of the brain and behavior.</p> <p>11 We're not there yet, necessarily. But, anyway, so</p> <p>12 now ask your question given that you know my context</p> <p>13 of what you mean.</p> <p>14 Q Yes, I was wondering, when you're looking at</p> <p>15 somebody else's research, what are the types of</p> <p>16 things that, when you're looking at someone else's</p> <p>17 research, are there certain things you do before you</p> <p>18 incorporate that into your own work?</p> <p>19 A Yeah. I mean, what I do is I look at what other</p> <p>20 people have done and I try to add to that knowledge</p> <p>21 in a new and significant way that is incremental,</p> <p>22 you know. And sometimes it's very small, and you</p> <p>23 have a harder time publishing those kinda studies,</p> <p>24 you have to go to pretty specialty journal, and</p> <p>25 sometimes it's very large. And I actually think the</p>

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<p>1 sexting paper is a very large, is very large, 2 because there's so little out there. That's what I 3 was saying to you before.</p> <p>4 So, yes, we often will look at what 5 exists, what's our knowledge, as we know it, as best 6 we know it now, and why is my study gonna add to 7 that knowledge. And if I can't make that case, I 8 don't get published; bottom line, you won't get 9 published.</p> <p>10 They'll be times where I'll ask my 11 authors, you know, you have to make a stronger 12 rationale for what's the unique contribution of this 13 paper. People loved it, they thought you did good 14 methods, they thought it was interesting, but they 15 wondered whether or not it's very good. You know, 16 sometimes they'll say, I'll get all that, and the 17 person will say "reject" because it's too 18 incremental, it's not enough of a new contribution, 19 a new addition to the literature.</p> <p>20 So the behavioral sciences, I mean, 21 this is what we do. It's kind of what you guys do 22 as lawyers, too; you look at case law and you, 23 judges are making decisions based on prior case law; 24 isn't that what precedent is? It's a similar 25 concept, right?</p>	<p>1 can you generalize to, and all those issues, even 2 though that might be the best science we have. You 3 know, a strict constructionist might say, Then you 4 shouldn't do it. But if we held ourselves up to 5 that standard, you know, we wouldn't have cars, 6 honestly, we wouldn't have cars, 'cause when I 7 started driving in cars, there were no seat belts.</p> <p>8 Q So I'm interested still, when you're looking at 9 other research, the types of evaluations that you're 10 making; so if you're looking at findings from 11 another study, do you evaluate the way that they 12 chose their sample?</p> <p>13 A Absolutely.</p> <p>14 Q What types of things are you looking for there?</p> <p>15 A How representative or how broad is the sample frame 16 that they use or how narrow, right? If they only 17 studied blue-haired and blonde-eyed people, then I'd 18 say, okay, that's interesting, but we're going to 19 study green-haired and purple-eyed people, and so 20 that's a contribution, that's adding to the 21 literature.</p> <p>22 And we would make a case with why we 23 think they're different, right, other than their 24 hair color, or whatever. Then we would sort of say, 25 building on that, and if we found something similar,</p>
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<p>1 Q Do you look at the methods used by other 2 researchers?</p> <p>3 A Of course, absolutely. And, again, if there's a 4 huge field, I'll only pick the ones that are really 5 good, and if it's a narrow field, I'll pick whatever 6 is out there to make my case, right? And I don't 7 often go to popular press and popular context. I'll 8 go to federal government type stuff all the time, 9 nonpeer-reviewed. But when it's so narrow, that's 10 all there is, you know, it helps make a case for why 11 we need to do our systematic study, right?</p> <p>12 In fact, we did that to get funding, 13 right? Nobody's ever really done this. Now, we 14 didn't do it for sexting. Our question, as I told 15 you before, wasn't specifically for sexting. It was 16 for, you know, substance use, and using this 17 methodology, to see how well we could do, if we do 18 this relatively new technique, which we're going to 19 have to do, and there's going to be more and more 20 studies that are going to go in this direction, 21 guaranteed, guaranteed. It's expensive, though, and 22 it's time-consuming.</p> <p>23 Anyway, so we kinda made a case to do 24 it, based on the fact that a lot of other survey 25 methodology has very limited sample frames, and who</p>	<p>1 we'd start saying, well, maybe this is something 2 about this age group or about people, who have 3 different colored hair, you know, whatever. But, 4 yeah, we would think about the qualities of the 5 study, the qualities of the sample and the sample 6 frame.</p> <p>7 It wouldn't matter if the person 8 overgeneralized, it wouldn't even matter to me. I 9 want to know what did they find, given their narrow 10 sample. And then I would say, okay, you know, where 11 do we go from there. So, you know, just 'cause they 12 generalize doesn't mean I have to generalize. 13 Having said that, I would say our sample is darn 14 good, really, darn good, in general. And we've 15 published a lot of papers out of it, and we've made 16 that case.</p> <p>17 Q When you're looking at other research, if another 18 study is using a term that is the same or analogous 19 to a term you're using in your studies, do you look 20 at the way that that other research defined that 21 term?</p> <p>22 A Absolutely, all the time.</p> <p>23 Q If it wasn't the same definition, what types of 24 things are you looking for?</p> <p>25 A Well, again, you know, it would really depend, but</p>

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<p>1 you know, sometimes we want to broaden it, sometimes</p> <p>2 we want to narrow it. If they say substance use is</p> <p>3 marijuana and cigarettes, we might say, time out,</p> <p>4 there is a lot of alcohol use, too, we're going to</p> <p>5 add alcohol use, and that's something that we're</p> <p>6 going to add to the literature on this, that was too</p> <p>7 narrow a definition of substances.</p> <p>8 Sometimes we'd say that's too broad,</p> <p>9 we need to be more narrow, we need to be more</p> <p>10 precise in our language, we need to have multiple</p> <p>11 items rather than a single item. Whatever it is,</p> <p>12 there's not a clear-cut answer to that question. It</p> <p>13 really depends on the research question you have,</p> <p>14 what other people have done, and if you can do it</p> <p>15 better, or do it differently enough that it adds to</p> <p>16 what we know. Sometimes, you know, you don't want</p> <p>17 to just say, well, that guy's an idiot and they</p> <p>18 didn't know what they were doing. That was the</p> <p>19 limitation of their study, one that we're going to</p> <p>20 address.</p> <p>21 Q If the definitions aren't precisely the same between</p> <p>22 a study you're doing and a past study, but you still</p> <p>23 want to compare those two studies, can you still</p> <p>24 make that comparison?</p> <p>25 A Again, it depends, you know. I wouldn't make a</p>	<p>1 make the opposite of a type one error; you want to</p> <p>2 avoid type two error, which is not finding</p> <p>3 relationship when there really is one. And if you</p> <p>4 don't have a large enough sample, you will maybe say</p> <p>5 there's no relationship here when, in fact, there</p> <p>6 is. And, you know, depending on your question,</p> <p>7 that's a more important, you know, error to make</p> <p>8 than the type one error.</p> <p>9 If you're a physician, you'd rather</p> <p>10 make -- you don't want any false-positives, right?</p> <p>11 You want, okay, let's say we want a very sensitive</p> <p>12 test, and they'd say, okay, now we know you might</p> <p>13 have it, we'll do some more tests to definitively</p> <p>14 get there, but this cutoff, we don't want to make a</p> <p>15 mistake and say you don't when you really do, right?</p> <p>16 For behavioral scientists, our stakes</p> <p>17 aren't that high. That's why we go with the</p> <p>18 95 percent confidence rule, because our science is</p> <p>19 soft, because people are a pain in the neck, a quote</p> <p>20 I use in my methods class, because all sorts of</p> <p>21 things affect us, right? All sorts of things.</p> <p>22 The way you respond to a question</p> <p>23 today might be very different than the way you</p> <p>24 respond to a question in a month, right, you know,</p> <p>25 depending on what happens, in the world, in your</p>
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<p>1 comparison with my study, for example, and a study</p> <p>2 of elderly, people in nursing homes, right? So the</p> <p>3 sample has to be somewhat the same, the same age</p> <p>4 range.</p> <p>5 We're often caught in a problem of</p> <p>6 some studies, you know, go from 18 to 29, and we</p> <p>7 have 18 to 24, right? And so sometimes you look at</p> <p>8 prevalence estimates of 18 to 29, and then you say,</p> <p>9 well, you know, we're only going 18 to 24, is our</p> <p>10 sample more or less likely to have that behavior</p> <p>11 that we're interested in? And if it's more likely,</p> <p>12 then, and we can make a case for that, we're, like,</p> <p>13 okay, we're good.</p> <p>14 If it's less likely, like marriage,</p> <p>15 for example, you're probably more likely to get</p> <p>16 married from 24 to 29 than you are from 18 to 24,</p> <p>17 and we're looking at marriage, and we know the</p> <p>18 prevalence rate from 18 to 29 is, let's say,</p> <p>19 12 percent, then we probably have a smaller</p> <p>20 percentage in our sample of 18-to-24-year-olds. So</p> <p>21 if we were doing a study, we might want to</p> <p>22 oversample them, 'cause we're probably going to get</p> <p>23 less than 12 percent, so we have enough to do</p> <p>24 statistical analysis, because you have to have a</p> <p>25 certain number for statistical power so you don't</p>	<p>1 life, and what you ate that day, how well you feel;</p> <p>2 I mean, so many things that kinda go into it. So,</p> <p>3 you know, the answer to your question, it's hard to</p> <p>4 answer your questions in a way that will be</p> <p>5 satisfying to you, or you, I don't know, you know,</p> <p>6 because our science is, I don't know, it's not,</p> <p>7 there aren't algorithms, per se. There are</p> <p>8 statistical algorithms, but you kinda do what you</p> <p>9 can do. And I can give you lots of examples of</p> <p>10 that.</p> <p>11 When you try to work in the community</p> <p>12 and try to see if this program is going to work to</p> <p>13 reduce youth violence versus others, and then you</p> <p>14 have a shooting where a seven-year-old kills a</p> <p>15 seven-year-old; I mean, that screws everything up,</p> <p>16 but what are you going to do, you can't stop that,</p> <p>17 or you're trying to study something and what happens</p> <p>18 in Boston happens; I mean, what are you gonna do?</p> <p>19 Do you just say, Oh, well, we can't know anything.</p> <p>20 Well, of course, not, you know, so you do the best</p> <p>21 you can. And you have some standards, and we have</p> <p>22 standards.</p> <p>23 Q So I want to go back to one scenario you raised, is</p> <p>24 maybe two studies you're looking at the same type of</p> <p>25 behavior, but they define the age range differently,</p>

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<p>1 so, for example, you're talking --</p> <p>2 A 18 to 29 versus 18 to 24.</p> <p>3 Q Exactly.</p> <p>4 A What do you do?</p> <p>5 Q Yeah, is it fair to say that, at minimum, you should</p> <p>6 recognize that there's a difference in age range and</p> <p>7 try to formulate some sort of explanation for why</p> <p>8 the results are similar or why they're dissimilar?</p> <p>9 A Yeah.</p> <p>10 Q So the important thing is to identify the difference</p> <p>11 and to explain --</p> <p>12 A Exactly, is to recognize it, be straightforward</p> <p>13 about what you're doing, and make a logical case for</p> <p>14 why looking at this is, you know, valuable or useful</p> <p>15 or, you know, provides a rationale. In my study we</p> <p>16 only do that, 'cause we do look at some of the</p> <p>17 adolescent literature, because there was so little</p> <p>18 of it, and because some of our group may still be</p> <p>19 adolescents; I mean, you know, they're 18,</p> <p>20 19-year-olds, 20-year-olds; I mean, they're still</p> <p>21 adolescent in some ways. They're really different</p> <p>22 than 12-year-olds, no doubt about it. They're a lot</p> <p>23 more similar to 17-year-olds. They're out of high</p> <p>24 school.</p> <p>25 So we didn't think we were making a</p>	<p>1 computers; I mean, in a way that's very different</p> <p>2 than the way I am. I mean, I would ask my son, I</p> <p>3 say, I don't understand sometimes the language</p> <p>4 they're using in the manuals, you know, but it's the</p> <p>5 way they think.</p> <p>6 Q So in sticking with the same idea about making</p> <p>7 comparisons between two studies that might have one</p> <p>8 thing different; so, for example, if there are two</p> <p>9 studies that are looking at, say, "drug use" as the</p> <p>10 phrase, but they define the phrase "drug use"</p> <p>11 somewhat differently, again, is it fair to say that</p> <p>12 the important thing is, when making that comparison,</p> <p>13 is that you acknowledge that there's a difference in</p> <p>14 definition and try to explain why the results may be</p> <p>15 different as a result of that definition?</p> <p>16 A Yes.</p> <p>17 Q Okay.</p> <p>18 A You're doing well.</p> <p>19 Q I think, once again, as with Friday, I went slightly</p> <p>20 over the 90-minute threshold for a break, so maybe</p> <p>21 this is a good stopping time.</p> <p>22 (Break was taken.)</p> <p>23 Q Dr. Zimmerman, I want to ask you a few questions</p> <p>24 about the present lawsuit, Free Speech Coalition</p> <p>25 versus Holder; are you familiar with this case?</p>
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<p>1 huge leap. We weren't comparing them to, you know,</p> <p>2 preschoolers, and we're not comparing them to people</p> <p>3 like me, you know. I mean, I imagine, if you ask</p> <p>4 people like me, you know, there's a lot of us, who</p> <p>5 don't even know how to use their phone to send a</p> <p>6 text, to send a picture, I mean, in a text. I mean,</p> <p>7 like my mother is older than me, has no idea. She</p> <p>8 texts, she gets them, but she has no idea how to do</p> <p>9 it, right? 18, 24-year-olds, you know.</p> <p>10 I mean, you probably, your age, you</p> <p>11 probably hear people say, well, you know, if you</p> <p>12 need to know how to do it, ask your 15-year-old kid,</p> <p>13 right? And you probably make jokes in the office</p> <p>14 about, well, we need to get a high-schooler in here</p> <p>15 to figure this out for us, right? It's the same</p> <p>16 thing.</p> <p>17 And so if, for example, 18 to 29 was</p> <p>18 a study, and they found "X" prevalence rate of</p> <p>19 sexting, let's say, I would argue that our data is</p> <p>20 probably even more similar to what the actual</p> <p>21 prevalence rate is, because 24 to 29 may not do so</p> <p>22 much sexting. I have to say that's probably a</p> <p>23 little less true today than it might have been even</p> <p>24 five years ago, because, you know, people are aging</p> <p>25 into adulthood, who are very familiar with</p>	<p>1 A Again, just what I told you in the beginning; I</p> <p>2 didn't even know it was the Free Speech Coalition.</p> <p>3 I didn't who the, I guess they would be the</p> <p>4 plaintiffs, and Holder -- oh, Holder is the Attorney</p> <p>5 General, right, so I guess I could have figured that</p> <p>6 out. I thought it would have said "U.S.</p> <p>7 Government," but I guess he's representing the U.S.</p> <p>8 Government, so it's always the Attorney General it's</p> <p>9 against, right?</p> <p>10 Q Not always. It depends on the lawsuit.</p> <p>11 A Okay. So that's news.</p> <p>12 Q Okay. What else do you know about the case?</p> <p>13 A I think what I told you, that I know that your</p> <p>14 clients, 'cause when, you know, your law firm</p> <p>15 contacted me, they told me that, you know, I did</p> <p>16 this sexting study, and would I be interested in</p> <p>17 being an expert witness. And I said, What for? And</p> <p>18 they told me that it was, our clients are saying</p> <p>19 that this law is too broad, and the federal</p> <p>20 government is saying the law is not too broad, and</p> <p>21 your data -- and that some judge, I don't know</p> <p>22 whether it was the appellate court, or I don't know</p> <p>23 where it was, referred it back to you guys -- you</p> <p>24 guys, I don't know who, you guys, but I assume you</p> <p>25 guys -- and said we needed to do some more research</p>

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<p>1 about how many people this might affect.</p> <p>2 And Bill, I think, contacted me and</p> <p>3 had discovered it, or somebody in your law firm, who</p> <p>4 said, who's the original person who contacted me,</p> <p>5 said we had to do that, and we discovered your paper</p> <p>6 on sexting, and, you know, would you be interested</p> <p>7 in being an expert. And I told them, well, I'd be</p> <p>8 interested, but you might not want me, because I've</p> <p>9 never done this before, so I don't know what I'm</p> <p>10 doing in that regard, because I'm an academic; an</p> <p>11 academic, who doesn't do expert witnessing, but I'm</p> <p>12 sure there's lots of them that do.</p> <p>13 I should have called a friend of</p> <p>14 mine, just come to think of it, who does this a lot,</p> <p>15 but he's not an academic really, but, anyway.</p> <p>16 Q Who serves as an expert witness a lot.</p> <p>17 A Yeah. Yeah. In cases for competency to stand</p> <p>18 trial. Interesting stuff.</p> <p>19 Q Yeah.</p> <p>20 A But, anyway, so that's about the extent of my</p> <p>21 knowledge. I don't know any of the details.</p> <p>22 Q Okay. Did you write all of your expert report</p> <p>23 yourself?</p> <p>24 A Um-hum.</p> <p>25 MR. BAUMGARDNER: You have to answer</p>	<p>1 always so careful, anyway. Imagine how bad it would</p> <p>2 be if I wasn't.</p> <p>3 Q So altogether it took you about three hours to put</p> <p>4 together the expert report.</p> <p>5 A Probably. I'm guessing now. I don't really know,</p> <p>6 'cause I didn't really time it, 'cause I'm not being</p> <p>7 paid by the hour.</p> <p>8 Q Sure. And you are being paid to provide the expert</p> <p>9 report, correct?</p> <p>10 A Yes.</p> <p>11 Q Were you asked to assume any facts to be true for</p> <p>12 purposes of your report?</p> <p>13 A Assumed any facts to be true? No. I wouldn't do</p> <p>14 that, anyway. I have integrity, after all.</p> <p>15 Q Are you familiar with any of the experts in this</p> <p>16 case?</p> <p>17 A No. When I saw Stark's report, I saw that there was</p> <p>18 somebody else, who had gotten to be sexting, that</p> <p>19 Drouin.</p> <p>20 Q Correct.</p> <p>21 A I don't know her, but I looked her up on the web.</p> <p>22 She's pretty young. I feel bad for her, having to</p> <p>23 do all this, but also really exciting for her.</p> <p>24 Probably a real feather in her cap that she was</p> <p>25 deposited for this. And then I looked up Stark.</p>
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<p>1 verbally, Doctor.</p> <p>2 A Yes, with a little caveat. I asked somebody, who</p> <p>3 works for me, to look up the number of people in</p> <p>4 that age range in the United States, the 30-million</p> <p>5 number, 30 million, plus or minus, but, yes, I wrote</p> <p>6 it otherwise myself. I got a little bit of</p> <p>7 information by asking them to provide it for me.</p> <p>8 BY MR. SWINTON:</p> <p>9 Q By asking this other person, who works for you.</p> <p>10 A Yeah, yeah, yeah.</p> <p>11 Q Okay. How long did it take you to complete your</p> <p>12 expert report?</p> <p>13 A How long did it take me to complete it? Oh jeez, I</p> <p>14 don't know; a few hours, you know. You read my</p> <p>15 paper. If you count the time, 'cause you guys asked</p> <p>16 me to do it, and I had to get some sense of, well,</p> <p>17 what do you want me to do, right? I couldn't just</p> <p>18 build a house, I didn't know how big the house had</p> <p>19 to be, right, so, okay, what do you want?</p> <p>20 They wanted me to stick with that,</p> <p>21 and they asked me to make an extrapolation, and, you</p> <p>22 know, so I'd say probably a couple, three hours kind</p> <p>23 of thing. I did it a couple times, you go back</p> <p>24 through it. I told you about my obsession with</p> <p>25 words. Maybe I wasn't -- I do that, but I'm not</p>	<p>1 Q Okay.</p> <p>2 A But those are the only two people, other than me,</p> <p>3 that I know are involved in the case.</p> <p>4 Q So you've never heard of, I think her name is Dr.</p> <p>5 Michelle Drouin, from Indiana Purdue, Fort Wayne?</p> <p>6 A Before this, no.</p> <p>7 Q And had you ever heard of Dr. Philip Stark?</p> <p>8 A No. Now, that one I probably should have, because</p> <p>9 he's a chair of a department, and all that kind of</p> <p>10 stuff, but, no.</p> <p>11 Q Okay. And I know Dr. Drouin has written previously</p> <p>12 on sexting, but you had never come across her in</p> <p>13 your work on sexting.</p> <p>14 A No, little embarrassed to say. Now, that might be</p> <p>15 because of sample differences and whatnot, because I</p> <p>16 think she looked at -- did she look at young adults?</p> <p>17 I didn't look up her research. I didn't even</p> <p>18 investigate her. And I did that on purpose, at this</p> <p>19 point. Maybe I should have. I will, when this is</p> <p>20 done, but I didn't feel like I should kind of do</p> <p>21 that.</p> <p>22 Q I believe she conducted two studies looking at</p> <p>23 sexting among students at her university in</p> <p>24 psychology classes.</p> <p>25 A Right.</p>

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<p>1 Q But you had never come across her.</p> <p>2 A No, because, again, you know, we -- yeah, no.</p> <p>3 Q Okay.</p> <p>4 (Zimmerman Deposition Exhibit No. 2</p> <p>5 was marked for identification.)</p> <p>6 Q I hand you a document marked Zimmerman Exhibit 2.</p> <p>7 A Okay. And now we go into this.</p> <p>8 Q Get my documents in order here. Dr. Zimmerman, I</p> <p>9 just handed you a document marked Zimmerman Exhibit</p> <p>10 2. At the top, it's entitled Expert Report,</p> <p>11 Submitted by Marc A. Zimmerman, Ph.D; I believe it's</p> <p>12 three pages long, correct?</p> <p>13 A Yes.</p> <p>14 Q And this is the expert report you submitted for this</p> <p>15 case.</p> <p>16 A Yes.</p> <p>17 Q And in this expert report you estimate the number of</p> <p>18 young adults ages 18 to 24, who have sent a sext</p> <p>19 message, correct?</p> <p>20 A Yes.</p> <p>21 Q And you also estimate the number of young adults</p> <p>22 ages 18 to 24, who have received a sext message,</p> <p>23 correct?</p> <p>24 A Yes.</p> <p>25 Q And your estimates are based on a study that you</p>	<p>1 A Between 18 and 24-years-old.</p> <p>2 Q Between 18 and 24.</p> <p>3 A That was the data point that I asked my colleague to</p> <p>4 get.</p> <p>5 Q Okay. So your study's conclusions were limited to</p> <p>6 the number of young adults who use the internet.</p> <p>7 A Correct.</p> <p>8 Q But you applied those percentages to the number of</p> <p>9 young adults nationwide.</p> <p>10 A Correct.</p> <p>11 Q Do you know how many young adults ages 18 to 24</p> <p>12 nationwide do not use the internet?</p> <p>13 A The studies that have been done say that, what's the</p> <p>14 percentage, I think it's like 75 to 80 percent; it's</p> <p>15 a very large percentage. It's not 100 percent. And</p> <p>16 I did not correct for that.</p> <p>17 Q Okay. So is it fair to say that your number</p> <p>18 estimates, for example, the 30,672,088 people, or,</p> <p>19 excuse me, the number estimates, for example --</p> <p>20 A Nine-million-two.</p> <p>21 Q Correct.</p> <p>22 A The 9.2, rounding, and the 12.5 include people who</p> <p>23 may not use the internet.</p> <p>24 Q Correct, yeah.</p> <p>25 A Yes, let me give a caveat here. The sampling</p>
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<p>1 published in 2012, correct?</p> <p>2 A Yes.</p> <p>3 Q And in that study you obtained prevalence rates for</p> <p>4 both sending and receiving sext messages among young</p> <p>5 adults, correct?</p> <p>6 A Yes.</p> <p>7 Q I want to look at paper two of your report. And the</p> <p>8 first sentence, in the first paragraph, you say, "We</p> <p>9 believe results our results," and I think the</p> <p>10 results you are referring to there are the results</p> <p>11 from your 2012 study, "are nationally representative</p> <p>12 of young adults who use the internet," correct?</p> <p>13 A Um-hum.</p> <p>14 MR. BAUMGARDNER: "For several</p> <p>15 reasons."</p> <p>16 BY MR. SWINTON:</p> <p>17 Q "For several reasons." And then, in the last</p> <p>18 paragraph, you apply that the results of the 2012</p> <p>19 study to data from the U.S. Census Bureau. Was the</p> <p>20 data you were taking from the U.S. Census Bureau</p> <p>21 information about the number of young adult</p> <p>22 nationwide who use the internet?</p> <p>23 A No.</p> <p>24 Q It was just the number of young adults nationwide,</p> <p>25 correct?</p>	<p>1 strategy started with people who use the internet,</p> <p>2 because of the way we sampled, the way we did the</p> <p>3 RDS sampling. We were doing RDS, which is a</p> <p>4 technique that is not necessarily using the</p> <p>5 internet. We then said, let's apply this to the</p> <p>6 internet, because, in this population, so many</p> <p>7 people are connected; however, because of the way we</p> <p>8 did it, it's very possible, albeit somewhat</p> <p>9 unlikely, but possible that people, who responded</p> <p>10 after we started with people, who absolutely use the</p> <p>11 internet, you know, presumably a lot, that there</p> <p>12 might be people down the line who use it a little</p> <p>13 bit less, right.</p> <p>14 So they may have heard about, like, I</p> <p>15 don't use the internet very much, but their friend</p> <p>16 said, you know, if you do this, you can get some</p> <p>17 money. So they might say, oh, okay, I'll go on, and</p> <p>18 I'll get ten bucks; I'll get 20 bucks, and then I'll</p> <p>19 get more money if I nominate additional friends.</p> <p>20 So the variation of use could vary,</p> <p>21 but you definitely have to have used the internet to</p> <p>22 have filled out the questionnaire, okay? That</p> <p>23 doesn't mean you're necessarily a regular user; you</p> <p>24 could have used your roommate's computer, or you</p> <p>25 could have gone to the library to do it.</p>

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<p>1 Q You could have used the internet for the first time 2 to fill out the questionnaire.</p> <p>3 A Exactly. Possible. I'll give it to you; that's 4 unlikely. It's unlikely it was the first time you 5 did it, was to fill out our questionnaire, but 6 possible.</p> <p>7 Q Okay. So is it possible that the numbers you 8 estimate are too high?</p> <p>9 A It's possible. Yeah, it's possible it's too low.</p> <p>10 Q I wanted to ask you one more question while we're on 11 the expert report, and this is on page one. In the 12 last paragraph on the page under the subheading 13 Defining Sexting, you say, "We defined," and, again, 14 I think you're referring to your 2012 study here, 15 "sexting as sexually suggestive photos or messages 16 through cell phones or other media."</p> <p>17 A Um-hum.</p> <p>18 Q So is your estimate of sexting, when you make an 19 estimate of sexting, are you defining sexting to 20 include both photos and messages?</p> <p>21 A Well, we don't separate them, so the answer is, yes.</p> <p>22 Q Okay.</p> <p>23 A We can't have separated them. We said, "Have you 24 sexted," and then we defined sexting, and there it 25 was.</p>	<p>1 A And then sometimes has words and sometimes it 2 doesn't have words, right. So I don't know, at the 3 moment, but at the break I can look at the paper and 4 tell you.</p> <p>5 Q Okay. Well, yeah, why don't we just take a look at 6 that now. I just want to make sure I'm clear on 7 this, so we'll mark the third exhibit. 8 (Zimmerman Deposition Exhibit No. 3 9 was marked for identification.)</p> <p>10 Q Dr. Zimmerman, I just handed you a document marked 11 Zimmerman Exhibit 3. This is a six-page article 12 entitled Sexting Among Young Adults, and you are one 13 of the co-authors of this article, correct?</p> <p>14 A Correct.</p> <p>15 Q I think the definition of sexting is on page two.</p> <p>16 A It is.</p> <p>17 Q And it's under the heading Measures, subheading 18 Sexting. You say, "Using definitions provided by 19 the Pew Internet and American Life Project, we asked 20 participants whether they had ever sexted," 21 parenthetical, "i.e, sent a sexually suggestive nude 22 or nearly nude photo video of themselves to someone 23 else using their cell phones."</p> <p>24 A Correct. So the answer to the question earlier 25 would be "and."</p>
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<p>1 Q Okay. And so when you say "messages" here, do you 2 mean text messaging?</p> <p>3 A Yes.</p> <p>4 Q And the content of the message, is it words only?</p> <p>5 A No, it actually -- we said, "photos," but I think 6 the wording was also videos. If you give me the 7 paper, I can doublecheck.</p> <p>8 Q Sure.</p> <p>9 A But later?</p> <p>10 Q Yeah.</p> <p>11 A Okay.</p> <p>12 Q We'll probably bring that up later. I was just 13 curious, for your expert report, I wanted to be 14 clear on how you were defining sexting. So you're 15 defining it to mean, you say here, both photos or 16 messages, and --</p> <p>17 A It would probably should say "and messages."</p> <p>18 Q Okay.</p> <p>19 A So it's not just -- I have to look at the paper. I 20 don't know.</p> <p>21 Q Okay.</p> <p>22 A I don't remember whether it should be "and" or "or."</p> <p>23 Q Okay.</p> <p>24 A I think it had to have a photo.</p> <p>25 Q Okay.</p>	<p>1 Q Okay.</p> <p>2 A Not "or." See, carefulness of language I had 3 mentioned before. So that would be, it had to have 4 a photo or a video, so there could be words or not 5 words, so that should say "and."</p> <p>6 Q So, in other words, a sext would not be a message 7 with just words.</p> <p>8 A It wouldn't be a text that had sexually explicit 9 things in it; it would be a photo.</p> <p>10 Q Or video.</p> <p>11 A Or video, yeah.</p> <p>12 Q So a sext is a message sent by cell phone with 13 either a video or a photograph.</p> <p>14 A Correct.</p> <p>15 Q And I want to stay on the article from 2012.</p> <p>16 A Okay.</p> <p>17 Q And ask you some questions about that. I think we 18 touched on this a little bit before, but let me ask 19 it again; why did you become interested writing 20 about sexting?</p> <p>21 A That's a good question. Basically, we had the study 22 that we were doing that was not about sexting at 23 all. It was really about, can we use respondent- 24 driven sampling to get a national sample of youth, 25 about youth defined as this age group,</p>

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<p>1 18-to-24-year-olds, so young adults, that would</p> <p>2 match a national sample done in a different method.</p> <p>3 And a previous paper, we decided that</p> <p>4 we were darn close on a lot of the measures, and we</p> <p>5 think we got a national representative sample;</p> <p>6 certainly one that would be in the series of studies</p> <p>7 that somebody might review for national</p> <p>8 representation how much this has actually happened.</p> <p>9 The sexting issue kind of came up as</p> <p>10 we were putting together a questionnaire. I think</p> <p>11 sexting, at the time, was starting to get a lot more</p> <p>12 use and press and attention. And we were doing a</p> <p>13 study of internet use and internet norms and sort of</p> <p>14 internet. And one of the questions we were looking</p> <p>15 at is, you know, when people put pictures on their</p> <p>16 Facebook pages, does that create a norm that you</p> <p>17 would do more alcohol than if you didn't have that,</p> <p>18 right; this is one of the questions that came out.</p> <p>19 So part of that came out of this idea</p> <p>20 that sexting was just, more or less, taking off; I</p> <p>21 mean, no pun intended. It was already happening,</p> <p>22 but I think there was something recently in the</p> <p>23 newspapers about a teenager, who had had a sexually</p> <p>24 explicit picture, photo of hers, that went viral,</p> <p>25 'cause she broke up with her boyfriend or something;</p>	<p>1 said, let's do it, so it was sort of almost</p> <p>2 fortuitous. It was not intentional, really, for the</p> <p>3 study.</p> <p>4 Q So the purpose of the study was not necessarily to</p> <p>5 obtain a nationwide estimate on the prevalence of</p> <p>6 sexting.</p> <p>7 A No, the initial study was to get a nationwide</p> <p>8 prevalent estimate of substance abuse. Actually,</p> <p>9 strictly speaking, it's use, not abuse. Abuse, in</p> <p>10 clinical terms, psychiatric terms, is a very defined</p> <p>11 definition that we do not get at. We ask, for</p> <p>12 example, in the last 30 days, how many times have</p> <p>13 you smoked a marijuana cigarette; how many alcoholic</p> <p>14 drinks have you had; how many cigarettes have you</p> <p>15 smoked; you know, those sort of questions. You</p> <p>16 know, I don't think it's abuse, necessarily, if a</p> <p>17 21-year-old has, you know, two drinks a week for a</p> <p>18 month, right; I mean, that's not abuse, so it's more</p> <p>19 use, but we have that continuum, again, to go back</p> <p>20 on that.</p> <p>21 So the original intent of the study</p> <p>22 was to look at internet users and their affects and</p> <p>23 how that might relate to their substance use, and if</p> <p>24 we can use this RDS technique to get similar</p> <p>25 estimates of use, prevalence use, in other national</p>
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<p>1 I don't exactly remember. It might have been</p> <p>2 actually the very person who helped me with that one</p> <p>3 little piece of information in my report, who sort</p> <p>4 of also raised the question, and I said, Let's ask</p> <p>5 some questions about that and see. So it wasn't</p> <p>6 something that was driving; it was one of those sort</p> <p>7 of, well, we're asking people questions anyway, we</p> <p>8 could ask these questions in four questions or so,</p> <p>9 and, actually two, and let's just do it, and we</p> <p>10 we'll see what we find.</p> <p>11 No one's really done a lot of this</p> <p>12 work on sexting, so we thought this would add to the</p> <p>13 literature, this would be a contribution, a</p> <p>14 significant contribution. We'd have a large sample,</p> <p>15 a somewhat representative sample. And it's an age</p> <p>16 group that is very sexually active; I mean, clearly,</p> <p>17 as we age, you know, this is the period of time</p> <p>18 where sexual activity sort of starts to really take</p> <p>19 off. And then so we thought, well, if it's going to</p> <p>20 happen, it's going to happen in this population.</p> <p>21 It's probably happening outside, but we should be</p> <p>22 able to detect something here, because the sexual</p> <p>23 behavior is high, and the dating, and all of the</p> <p>24 kinds of things that you do around, that would drive</p> <p>25 you potentially to be sexting, is happening, so we</p>	<p>1 studies. And we did a study that we published on</p> <p>2 comparing it to the, it's a national study of drug</p> <p>3 abuse, the National Household Study on Drug Use, I</p> <p>4 forget the name of it.</p> <p>5 Q I believe the acronym is NSDUH.</p> <p>6 A Very good.</p> <p>7 Q Is that right?</p> <p>8 A That is right. So what's it stand for?</p> <p>9 Q You know, I'd have to look that up.</p> <p>10 A I got to ask you a question. Sorry.</p> <p>11 MR. BAUMGARDNER: You got him to</p> <p>12 answer it, that's even more.</p> <p>13 A Exactly. And that's done by SAMHSA, which is the</p> <p>14 Substance Abuse Mental Health Administration. It's</p> <p>15 an HHS agency; you know about that.</p> <p>16 BY MR. SWINTON:</p> <p>17 Q Um-hum.</p> <p>18 A So our results were similar to that, which added to</p> <p>19 our confidence that we have something here.</p> <p>20 Q So when you were doing the sexting study, was there</p> <p>21 a national study that looked at the prevalence of</p> <p>22 sexting that you were intending to compare your</p> <p>23 results to?</p> <p>24 A No, not that we had known of at the time.</p> <p>25 Q Okay.</p>

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<p>1 A Honestly, I think we probably have the best data on</p> <p>2 that at the moment.</p> <p>3 Q Okay.</p> <p>4 A And, you know, I mean there are some limitations, as</p> <p>5 I talked to you about before, but it's probably</p> <p>6 about the best data there is out there.</p> <p>7 Q So your data on the prevalence of sexting among</p> <p>8 young adults, 18-to-24-year-olds, is the best out</p> <p>9 there.</p> <p>10 A Currently, right now, published, or published at</p> <p>11 that time. There could have been stuff that</p> <p>12 happened in the last two years that I'm not as aware</p> <p>13 of. It's not really my wheelhouse, so I haven't</p> <p>14 kept up with this literature, whereas I have, more</p> <p>15 or less, with the substance use literature, 'cause</p> <p>16 that's in my wheelhouse, and violence, and that sort</p> <p>17 of stuff.</p> <p>18 Q Just so I'm clear, you didn't perform this study, or</p> <p>19 write this article in any way because of the current</p> <p>20 litigation, correct?</p> <p>21 A Correct. Yeah, I had no idea that this current</p> <p>22 litigation was going on until I got a phone call</p> <p>23 from the law firm asking me to do this.</p> <p>24 Q Okay.</p> <p>25 A So it was completely and absolutely independent. I</p>	<p>1 that.</p> <p>2 Some people went to ZIP codes of</p> <p>3 cities, because, you know, that's where high</p> <p>4 concentrations might be living. But, of course,</p> <p>5 like Greenwich Village, which is known as one area,</p> <p>6 or the Castro in San Francisco, were not, you know,</p> <p>7 they're not 100 percent, by any means, not even</p> <p>8 close. So they were all very flawed approaches.</p> <p>9 And there was a technique, this is</p> <p>10 like a snowballing technique, when I first read</p> <p>11 about it. This is something that people have used</p> <p>12 years and years and years ago, but was sort of</p> <p>13 thrown out as, like, no, this is just people who</p> <p>14 know each other and it's just, you know, you're just</p> <p>15 capitalizing on people that know each other and you</p> <p>16 have a very narrow sample; hence, the current</p> <p>17 iteration of this is where you correct for that,</p> <p>18 which is what we did, and that's why we go from a</p> <p>19 sample of 3,000 to 800, that sort of thing.</p> <p>20 So the technology for doing RDS is</p> <p>21 newer and better. And, actually, if you really want</p> <p>22 to know about RDS, Eric would be the person to have</p> <p>23 come here and talk to him about it. And like all</p> <p>24 methods, you know, there are the acolytes and there</p> <p>25 are the critics. And we try to figure out the best</p>
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<p>1 was surprised that somebody actually read the paper.</p> <p>2 Q Okay. I thought maybe we could turn to talking a</p> <p>3 little bit about RDS. I know we've kind of</p> <p>4 mentioned it in passing so far. RDS stands for</p> <p>5 respondent-driven sampling, correct?</p> <p>6 A Correct.</p> <p>7 Q This is a method for selecting participants in a</p> <p>8 study, correct?</p> <p>9 A Um-hum.</p> <p>10 Q And RDS itself has been around, how long has RDS</p> <p>11 itself been around, as a method?</p> <p>12 A Ask Eric Volz. Not long. I don't really know, so</p> <p>13 I'm talking a little bit out of turn, maybe I</p> <p>14 shouldn't, but I'm pretty sure that there were</p> <p>15 groups of people, who are interested in studying</p> <p>16 very difficult populations to reach, like gay men in</p> <p>17 particular. I think it came out of CAPS, the Center</p> <p>18 for AIDS Prevention Studies.</p> <p>19 I think some of their work was, how</p> <p>20 do we estimate behaviors in this population?</p> <p>21 Typically, it was very convenient samples, to go</p> <p>22 back to the conversation, ones that I've actually</p> <p>23 done, where there were studies where you went to</p> <p>24 places where people, who were homosexuals, would</p> <p>25 frequent, bars, or, you know, clubs, and things like</p>	<p>1 way we can to get a sense of behavior and behavioral</p> <p>2 correlates, and, I mean, how do you do you that, you</p> <p>3 know.</p> <p>4 Q Yeah. You used a word in there, "snowballing"; is</p> <p>5 snowballing the same thing as RDS?</p> <p>6 A No, no, it's not the same thing, but it was</p> <p>7 reminiscent to me of that, that how do you identify</p> <p>8 leaders in a community? That's research I did</p> <p>9 30-plus years ago. And, you know, somebody said,</p> <p>10 what you do is you ask a person, and then you ask</p> <p>11 the next person, and then after a while everybody</p> <p>12 keeps pointing to the same group of people you know</p> <p>13 you got it.</p> <p>14 Q Okay.</p> <p>15 A And, of course, if you sample that way, it wouldn't</p> <p>16 be necessarily the best way to do it, but this is</p> <p>17 really pretty different than that, but the process</p> <p>18 is, you start with what's called seeds; you've read</p> <p>19 about this.</p> <p>20 Q Um-hum.</p> <p>21 A You're up on it.</p> <p>22 Q I have.</p> <p>23 A So you know that you start with seeds; you have them</p> <p>24 nominate people, they have them nominate people, and</p> <p>25 so forth down the line. And Heckathorn, who has</p>

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<p>1 sort of really much more further developed this at 2 the University of San Diego, University of 3 California-San Diego, I think that's where he is, 4 who Eric studied with, basically says, once you 5 reach about eight generations, which they count that 6 as this person nominates this person, that person 7 nominates that person, so each level of nominating 8 the next level; he estimated that, if you got to 9 eight, you basically saturated the population, which 10 is pretty interesting. It's kind of the idea of two 11 degrees of separation, or, what is it, Six Degrees 12 of Separation with Kevin Bacon?</p> <p>13 Q Right.</p> <p>14 A It's pretty amazing how you can do that and how 15 quickly that happens. And it was pretty interesting 16 how, you know, even though the way we started, we 17 ended up with quite an interesting range of people, 18 but, in some cases, we also ended up with a little 19 too many of one group, because they kinda figured it 20 out and really started telling everybody about it; 21 it's sort of an interesting thing.</p> <p>22 Q You mentioned it before, that RDS is used to reach 23 the hidden or hard-to-reach populations, the example 24 you used are gay men; why are those populations hard 25 to reach?</p>	<p>1 I mean, you could argue that IV drug 2 users are the same. There might be some reasons 3 that we're interested in IV drug-users' behavior. 4 Well, how do you do that? An anthropologist would 5 say you have to hang out on the street and get more 6 in-depth and whatnot. A survey researcher is posed 7 with the problem of, how do I get as representative 8 a sample as I can, right? And one way is this RDS 9 approach.</p> <p>10 This is sort of a relatively new 11 technology that seems to be working. Some people 12 disagree, but enough people agree. Part of it is 13 because we also know that it's limited. How do we 14 get representative samples if it's going to be 15 limited?</p> <p>16 I would argue to you 17 18-to-24-year-olds, you could go to college campuses 18 and try to sample college campuses around the 19 country, and you'd have a pretty good sample. But I 20 don't know what the rates of college attendance is, 21 but it's lower, significantly lower, than using the 22 internet, right? And so we didn't want to do that, 23 but we wanted that population. Well, how do you get 24 them? They don't live all in a same area. You 25 couldn't go to a ZIP code and maybe have a high</p>
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<p>1 A Well, because there's no clear sampling frame, to go 2 back to our earlier conversation. There's no clear 3 sampling frame for gay men; I mean, what is that? 4 You know, fortunately we don't live in a society 5 where if you're gay you have to register, and then 6 you could pick people out from the registry. There 7 is no such registry. I mean, in fact, you know, 8 some people will go to gay organizations, but not 9 all gay men go to gay organizations; you know, they 10 don't all go to bars; you know, there are straight 11 people go to gay bars; straight people work in 12 organizations, right?</p> <p>13 I want to make it clear I'm not 14 making a value judgment here of any kind. I'm just 15 saying that there's no easy sample frame, and so, 16 therefore, the criticism of any sample or study that 17 you did of gay men behavior, gay male behavior, 18 right, would be flawed, or is flawed, which makes it 19 even more important that you have multiple studies 20 going in different ways and different directions. 21 And if they're all starting to say the same thing, 22 then that's when you get confidence to come back on 23 that conversation, right? So they're hard to reach, 24 because they're not easily captured in an easy 25 sample frame, right?</p>	<p>1 opportunity of hitting. You could go to bars, 2 'cause it is true that that age group, although you 3 wouldn't get, the 18-to-20-year-olds tend to go to 4 bars more often than people my age, but not 5 necessarily. I mean, where they're hanging out, who 6 knows, right? So, in a way, you could argue that 7 they are a harder to reach subpopulation of our 8 society.</p> <p>9 We thought, for that age group, the 10 internet is probably as good or better way than 11 almost any other way we could do it, 'cause they're 12 certainly not going to answer the telephone to do a 13 survey, we know that, right?</p> <p>14 Q Is RDS a good method to use if the target population 15 isn't hard to reach?</p> <p>16 A Is not? Well, that was part also of our motivation 17 for doing the study. We didn't really make a case 18 that this was a hard-to-reach population, in the 19 sense of IV drug users or gay men. Hard to reach, 20 that might be the wrong words to use, actually, in 21 terms of precise words; you know, maybe it's a 22 population that doesn't have a relatively, I don't 23 want to say easy, a relatively broad sampling frame 24 to use, right?</p> <p>25 And so we really argued that, well,</p>

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<p>1 you know, this is a population that wouldn't</p> <p>2 necessarily be characterized as that, but it's not</p> <p>3 really clear what that would be; you know, because</p> <p>4 they aren't the hard to reach without a sampling</p> <p>5 frame, right, or a unique part of the population.</p> <p>6 You know, you want to study women,</p> <p>7 for example, with lupus -- I mean, there might be</p> <p>8 lupus directories, actually, so I take that one</p> <p>9 back -- or men with this, that, or the other thing,</p> <p>10 or whatever, you know, it's hard, how do you sample</p> <p>11 that population.</p> <p>12 And what you try to do is you get as</p> <p>13 large a population as you can, because obviously the</p> <p>14 larger the population, the larger your sample, the</p> <p>15 more chance you have of it being representative,</p> <p>16 because, if you get so large, you have them all, and</p> <p>17 then it's no longer a sample, it's the population;</p> <p>18 then you don't have to have error statements, or</p> <p>19 anything, then you have the population.</p> <p>20 Well, that's an impossible thing to</p> <p>21 do; I mean, the Census doesn't even do that, right?</p> <p>22 And there's lots of debates about that as well. So</p> <p>23 one of the things that we argued in our</p> <p>24 peer-reviewed grant is that, is this a technique</p> <p>25 that we could use for the general population as</p>	<p>1 quite expensive, but I think our lessons learned</p> <p>2 will help make it cheaper. But it can be expensive,</p> <p>3 because, you know, there's all sort of issues that</p> <p>4 kinda come up that we didn't anticipate.</p> <p>5 Q So to be precise, we could call the method of</p> <p>6 sampling you used web-based RDS, correct?</p> <p>7 A Correct.</p> <p>8 Q That's different than RDS.</p> <p>9 A Yes, that's correct. That's correct. But it's</p> <p>10 similar.</p> <p>11 Q Okay.</p> <p>12 A In that, you start with seeds; you ask them to</p> <p>13 nominate people, and you ask them to nominate</p> <p>14 people, and you ask them to nominate people; and</p> <p>15 then, Eric Volz, working with Heckathorn, have a</p> <p>16 method for then estimating the similarity within a</p> <p>17 generation, and we've corrected for that. In fact,</p> <p>18 the algorithm that we describe in here, he created.</p> <p>19 Q So I want to go through this process, because it's</p> <p>20 something that I had never heard about before</p> <p>21 reading your report, so maybe if we could start with</p> <p>22 seed selection. So as I understand it, you</p> <p>23 recruited seeds using an online Facebook</p> <p>24 advertisement, correct?</p> <p>25 A Correct.</p>
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<p>1 well, especially since the internet is getting ever</p> <p>2 more accessible to everybody; I mean, the rates of</p> <p>3 that, from the Pew studies, are like 90 percent of</p> <p>4 people have access. They may not have it in their</p> <p>5 house, they may not use it all the time, but the</p> <p>6 number is like 90 percent, or 90-something percent;</p> <p>7 I mean, it's shocking to me, frankly, you know. And</p> <p>8 it's true going worldwide. That's why it's a</p> <p>9 phenomenon that we are just now getting a handle on.</p> <p>10 I mean, we see what goes on with it;</p> <p>11 horrible things go on with it. Some people argue</p> <p>12 that it was the internet that sort of started the</p> <p>13 revolution that's going on in the Middle East,</p> <p>14 right? I mean, it's why the Chinese really control</p> <p>15 it, because they know it can be really an organizing</p> <p>16 tool. So we know very little about it, but we do</p> <p>17 know that a lot of people use it.</p> <p>18 Q Right.</p> <p>19 A Hence, we said, well, since all of these other</p> <p>20 methods are flawed, we know this one might not be as</p> <p>21 flawed, or it might be flawed in different ways, is</p> <p>22 this a viable way to make it happen?</p> <p>23 And we thought it would be a really</p> <p>24 cheap way to make it happen, frankly, and it ended</p> <p>25 up, we learned so much about it, it ended up being</p>	<p>1 Q So what did that advertisement say?</p> <p>2 A Oh gosh, I don't exactly remember, but it had to be</p> <p>3 something short and quick and stuff. It said</p> <p>4 something, like, it was the University of Michigan,</p> <p>5 you want to make an extra buck, you know, contact</p> <p>6 us, kinda thing.</p> <p>7 What we did, is we actually had a</p> <p>8 consultant, who had done some of this RDS work in</p> <p>9 San Francisco at CAPS, where some of this was sort</p> <p>10 of starting to develop for the gay population. I</p> <p>11 don't know how much Heckathorn was involved with</p> <p>12 them or not, frankly.</p> <p>13 And we sat down and we said, how</p> <p>14 should we divide up the United States, how do we do</p> <p>15 this to try to get as nationally a representative</p> <p>16 sample as we can. So we used Census data to find</p> <p>17 out where larger percentage of African Americans or</p> <p>18 Latinos might be. We used regions of the United</p> <p>19 States. We had first tried to use one set of</p> <p>20 regions, and we had to get a little bit broader,</p> <p>21 because we didn't have the funding to get too</p> <p>22 nuanced, so we actually had, I think -- I forget how</p> <p>23 many regions we had, frankly. I don't know if we</p> <p>24 describe it in this paper; we do in the other paper.</p> <p>25 I think it was a three-by-three table</p>

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<p>1 possibly, nine cells, and it was white, African</p> <p>2 American, Latino. We picked those three, because</p> <p>3 those are the largest ethnic groups in the United</p> <p>4 States; you know, not that white isn't an ethnic</p> <p>5 group, and not that any one of those groups are</p> <p>6 monolithic; I mean, we also recognized that</p> <p>7 limitation.</p> <p>8 Then we picked the West, the East,</p> <p>9 Southeast, I think the Midwest might have been in</p> <p>10 two parts -- no, so the West was one part, so one,</p> <p>11 two, three, four? Now I'm not remembering. I'm not</p> <p>12 remembering exactly, but, basically, we sort of cut</p> <p>13 it up in that area, and I think we picked those</p> <p>14 because the Census data was broken down by those</p> <p>15 areas, so it was an area that the United States</p> <p>16 used, it wasn't just made up in our own heads.</p> <p>17 And then we used those areas to say,</p> <p>18 okay, what percentage African Americans, and then we</p> <p>19 said, okay, the Southeast has more African Americans</p> <p>20 than the west, so we'll have two more seeds that are</p> <p>21 African American to make sure that we reach down and</p> <p>22 get some more African Americans here than here to be</p> <p>23 representative of the United States.</p> <p>24 That was the reason that we did that</p> <p>25 process, so that we would make sure that we sampled</p>	<p>1 for those ads, and, as soon as we filled our cell,</p> <p>2 we closed the ad in that area. And Facebook has a</p> <p>3 thing where they know where, I guess, IP addresses</p> <p>4 are, or something, so they could close it down in a</p> <p>5 region so that only people who would still see it</p> <p>6 were in another region or another IPS address area.</p> <p>7 And what we did was, for example, we</p> <p>8 wanted three seeds in the southeast, who are African</p> <p>9 American, well, once we got our third African</p> <p>10 American seed, if a fourth one came along, we said,</p> <p>11 Sorry, closed; in fact, we took the ad down, we</p> <p>12 would take the ad down. Once we filled up that row,</p> <p>13 or that column, however you do it, we took the ad</p> <p>14 down.</p> <p>15 If it was the third African American</p> <p>16 seed, but there was still a couple white seeds that</p> <p>17 were still open, we left the ad up. But if an</p> <p>18 African American came along, we said, Sorry, thanks,</p> <p>19 we're finished, you know, we don't need you anymore</p> <p>20 kind of thing.</p> <p>21 BY MR. SWINTON:</p> <p>22 Q Was your ad visible to people who access Facebook</p> <p>23 using their mobile phone application?</p> <p>24 A I don't know. I don't know. I'm hesitating, 'cause</p> <p>25 I'm not sure Facebook had the mobile phone app at</p>
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<p>1 people where they were, so that it would be at least</p> <p>2 somewhat represent the distribution of the</p> <p>3 population of the United States.</p> <p>4 Q And that table that you're referring to, or the</p> <p>5 chart, you said you created that based on U.S.</p> <p>6 Census data, right?</p> <p>7 A Yes.</p> <p>8 Q So that wasn't something that had been used</p> <p>9 previously.</p> <p>10 MR. BAUMGARDNER: Objection.</p> <p>11 A I don't know. I'd be surprised if it wasn't used</p> <p>12 for some purpose, but I don't know whether it was</p> <p>13 used for RDS or not.</p> <p>14 BY MR. SWINTON:</p> <p>15 Q Do you know if it's been used since your study for</p> <p>16 RDS?</p> <p>17 A No, I don't.</p> <p>18 Q Okay. And if we could go back to the Facebook ad,</p> <p>19 just for one second. I was interested, did you</p> <p>20 target particular population of Facebook users?</p> <p>21 A No.</p> <p>22 Q So anybody who uses Facebook would have seen your</p> <p>23 ad?</p> <p>24 A Yes. Again, you're making me remember three or four</p> <p>25 years ago. I think what we did was we actually paid</p>	<p>1 the time. But if they did, I see no reason why they</p> <p>2 wouldn't have opinion able to. We would have</p> <p>3 thought of that.</p> <p>4 Q Okay.</p> <p>5 A But I don't know for sure. I could probably make a</p> <p>6 phone call and find out for sure.</p> <p>7 Q So you said that Facebook was able to determine</p> <p>8 where the user was located based on their IP</p> <p>9 address. So if a person was traveling with their</p> <p>10 laptop and a person who -- if a person from the East</p> <p>11 Coast was traveling with their laptop, but was</p> <p>12 accessing Facebook from California at the time they</p> <p>13 saw your ad, would Facebook have registered that</p> <p>14 user as living in California?</p> <p>15 A I think so, 'cause I think your IP address is when</p> <p>16 you connect to the internet. I think so. I don't</p> <p>17 think we got too many of those kind of situations.</p> <p>18 I mean, we could have gotten a resident of</p> <p>19 California, who now lives in New York; you know, if</p> <p>20 they were an undergraduate and they are going to</p> <p>21 school at Cornell, but they're from LA, that could</p> <p>22 have happened. But I don't think the situation you</p> <p>23 described could have happened.</p> <p>24 In other words, if I take my laptop</p> <p>25 to Atlanta and I kind of sign in to the internet</p>



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<p>1 there to access my Facebook page, the IP address is</p> <p>2 where I am, I think. I'm not sure. See, that's</p> <p>3 something you guys would know, your age group would</p> <p>4 know.</p> <p>5 Q So the example I'm thinking of is someone, who lives</p> <p>6 in New York, but was vacationing in California and</p> <p>7 went on Facebook and saw your ad.</p> <p>8 A And they would count as a West Coast person instead</p> <p>9 of an East Coast person? I don't think so.</p> <p>10 Q And why not?</p> <p>11 A Because the IP address.</p> <p>12 Q Okay.</p> <p>13 A 'Cause they would sign on to the IP address, they</p> <p>14 would be in California at the time, right? And then</p> <p>15 they would be a California person, but then we had</p> <p>16 some screening questions after that, where they had</p> <p>17 to be between 18 and 24, and they were thrown out if</p> <p>18 they weren't, right?</p> <p>19 You know, I don't really remember</p> <p>20 what we did in the situation you're saying, 'cause</p> <p>21 then you're saying, well, if their IP address was</p> <p>22 New York, or was California, and they did it then,</p> <p>23 wouldn't you know, or would you know you may have</p> <p>24 included an East Coast person in your study. I</p> <p>25 don't know the answer to that question.</p>	<p>1 I do know we asked them for their address, because</p> <p>2 we've done some neighborhood stuff, so we do know</p> <p>3 where they live. So if they went to California and</p> <p>4 then gave us a New York address, and we counted them</p> <p>5 against California, I think we would have caught</p> <p>6 that. I think we would have caught that.</p> <p>7 These are the issues -- this is an</p> <p>8 example of an issue that, while we thought this was</p> <p>9 going to be a really cheap way to do it, ended up</p> <p>10 being a very expensive way to do it, because we had</p> <p>11 a lot of doublechecking that went on around these</p> <p>12 kind of things, and that might have been one of</p> <p>13 them.</p> <p>14 I have to say, to be honest with you,</p> <p>15 Jose Bauermeister was in charge of those levels of</p> <p>16 details that I wasn't really paying attention to. I</p> <p>17 mean, I was, in the broad strokes, but this specific</p> <p>18 question, that's why I don't know the answer.</p> <p>19 Q Okay. Just to stick with the Facebook ad, I was</p> <p>20 interested in knowing the amount of time that it was</p> <p>21 visible. So you said that --</p> <p>22 A That varied. It depended how long -- I'm sorry, I</p> <p>23 talk over you.</p> <p>24 Q Keep going. I think you're answering my question.</p> <p>25 A Yeah. Yeah. As I said, we left it up until that</p>
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<p>1 Q Okay.</p> <p>2 A You know, we were really careful and really, like,</p> <p>3 obsessive almost. I can't believe we didn't figure</p> <p>4 that out or think about that. There might have been</p> <p>5 some screening questions that I'm not remembering.</p> <p>6 We did ask them their ethnicity, their age. And if</p> <p>7 they answered certain ways, we would immediately</p> <p>8 throw them out if they didn't fill our -- after the</p> <p>9 seeds, we didn't care anymore. And, by the way,</p> <p>10 that's true. You should know that this was only for</p> <p>11 the seeds, because we wanted to seed in the right</p> <p>12 area.</p> <p>13 Q Right.</p> <p>14 A So, you know, I don't know. The answer is, I don't</p> <p>15 know the answer.</p> <p>16 Q So just to verify, you don't recall if there were</p> <p>17 screening questions for seed selection based on</p> <p>18 region of the country.</p> <p>19 A Screening questions, which is, once you sort of</p> <p>20 agree to do it, you pop open the survey, then you</p> <p>21 start, and before you start you get the screening</p> <p>22 questions; the answer to your question is, yes. I</p> <p>23 don't remember. I don't know for sure.</p> <p>24 Q Okay.</p> <p>25 A I do think we asked them for their address. I mean,</p>	<p>1 seeded cell was full. It wasn't a cell, there were</p> <p>2 multiple cells because we wanted -- every region had</p> <p>3 some seed of those three ethnic groups. And we left</p> <p>4 it open as long as there was a seed to be had, and</p> <p>5 we closed it as soon as there was not.</p> <p>6 Q Do you know --</p> <p>7 A How long that was. Yeah, I don't know.</p> <p>8 Q Okay.</p> <p>9 A I don't know. I don't know if we even kept that</p> <p>10 record, honestly. We probably did, because we're</p> <p>11 trying to see if this is a useful method for doing a</p> <p>12 national study. And we knew we wouldn't be able to</p> <p>13 do a national study of people 18 and older, because,</p> <p>14 you know, my mother doesn't have a Facebook page,</p> <p>15 right? So we knew that it wasn't going to be for</p> <p>16 everybody, right?</p> <p>17 Q Right. But the ad was visible, within a particular</p> <p>18 cell, the ad was visible only as long as you still</p> <p>19 needed seeds in that cell.</p> <p>20 A Correct, or not seeds in that cell, seeds in that</p> <p>21 column, seeds in that region. Seeds in that region,</p> <p>22 would be the way to say it, because, you know, if we</p> <p>23 had everybody but one African American, let's say,</p> <p>24 from the West, that ad stayed up, and then if you</p> <p>25 came on -- we must have a screening question for</p>

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<p>1 ethnicity -- and if you said you were white, we</p> <p>2 said, Thank you very much. And if you said you were</p> <p>3 black, we'd say, Bingo, you're it.</p> <p>4 Q So I know you selected 22 seeds.</p> <p>5 A Is that right? I was trying to remember that. 22</p> <p>6 seeds, so what number of cells did we have? That's</p> <p>7 interesting. Okay, go on. You remember more than I</p> <p>8 do.</p> <p>9 Q I think you say in your study, actually.</p> <p>10 A In this study.</p> <p>11 Q Yeah, in the article you say you selected 22 seeds.</p> <p>12 A What did we say in terms of the cells; did we see</p> <p>13 that in here?</p> <p>14 MR. BAUMGARDNER: Here's the</p> <p>15 paragraph, I think.</p> <p>16 A All right, go on.</p> <p>17 BY MR. SWINTON:</p> <p>18 Q My question was, how many people, and I think -- my</p> <p>19 question is --</p> <p>20 A How many seeds per --</p> <p>21 Q How many people responded to the ad to be seeds?</p> <p>22 A That would get your response rate question that you</p> <p>23 were asking for before, at least for seeds. I don't</p> <p>24 know the answer to that question, I'm sorry. It</p> <p>25 might be known, but I don't know it off the top of</p>	<p>1 making up my answers, you know what I mean.</p> <p>2 MR. BAUMGARDNER: It's a</p> <p>3 hypothetical.</p> <p>4 THE WITNESS: A hypothetical, thank</p> <p>5 you.</p> <p>6 A If there was only one black person, or one only</p> <p>7 black seed we needed in the West, then that would</p> <p>8 have only one, but maybe in the West we had three</p> <p>9 whites. I'm pretty sure we may have had West,</p> <p>10 Midwest, Northeast, Southeast, so we may have only</p> <p>11 had four cells, so it was a three-by-four table, I</p> <p>12 think. I'm not positive about that.</p> <p>13 BY MR. SWINTON:</p> <p>14 Q Okay.</p> <p>15 A And I think we used those that the federal</p> <p>16 government has used in the past, so that we could</p> <p>17 get the Census estimates based on that; do you see</p> <p>18 what I mean? And, again, I don't specifically</p> <p>19 remember what that detail was and which one of their</p> <p>20 regional examples we used. I'm sorry, I just don't</p> <p>21 remember that.</p> <p>22 Q Were you involved in the seed selection process?</p> <p>23 A I was in those meetings, yes, and that's why I'm a</p> <p>24 little embarrassed to say I don't remember.</p> <p>25 Q Okay.</p>
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<p>1 my head. I'd have to look. I don't know.</p> <p>2 It's a complex question, because we</p> <p>3 could have gotten a response from a cell that's</p> <p>4 full. The white person from the West, for example,</p> <p>5 you know, we may have gotten 30 of those, and we</p> <p>6 only needed three, so we were done, right; and then</p> <p>7 we may have gotten more had we left it up, right,</p> <p>8 so, anyway.</p> <p>9 Q And do you recall the total number of cells that you</p> <p>10 had?</p> <p>11 A That's what I'm trying to remember, and I'm trying</p> <p>12 to think, okay, we had 22 seeds. I mean, we brought</p> <p>13 this consultant in, we spent two days, two days kind</p> <p>14 of figuring out what would be the best way to do</p> <p>15 this. And, I'm serious, I don't remember the</p> <p>16 outcome, 'cause if we had 22 seeds, and I know we</p> <p>17 had black, white, and Latino, so how many regions</p> <p>18 did we have?</p> <p>19 We basically had to look at what</p> <p>20 budget we had, what sample we wanted; these were all</p> <p>21 sort of the variables that were coming into it. So</p> <p>22 not all the cells had equal numbers in them, right?</p> <p>23 So we might have had only, because there's fewer</p> <p>24 blacks, let's say -- and I'm making this up at the</p> <p>25 moment, just as an example of making it up. I'm not</p>	<p>1 A But we were extremely thoughtful, painstakingly so,</p> <p>2 I have to say, to try to get -- because we knew that</p> <p>3 RDS is all about starting with as good a population</p> <p>4 as you can, right, and as representative, with 22</p> <p>5 people, as you can possibly get, so that what they</p> <p>6 would then, you know, document.</p> <p>7 We also knew, by the way, that people</p> <p>8 of color would be a little bit less likely, fewer</p> <p>9 generations, to, not only respond, but to give us</p> <p>10 many generations deep, so we oversampled some of</p> <p>11 them in the cells. I do remember that. But the</p> <p>12 specific details that you're asking me about, I'm</p> <p>13 sorry, I don't remember.</p> <p>14 Q Is there any significance to the number 22 for</p> <p>15 purposes of having seeds?</p> <p>16 A No, it was probably more driven by budget than</p> <p>17 anything. We had this much money that we could</p> <p>18 spend on incentives, and, if we started with too</p> <p>19 many, given how many generations, we wouldn't have</p> <p>20 the budget, so. . .</p> <p>21 Q If I remember correctly, in one of your previous</p> <p>22 studies, you also 22 seeds.</p> <p>23 A It was the same data.</p> <p>24 Q Okay.</p> <p>25 A It was from the virtual network -- what was it</p>



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<p>1 called. The Virtual Network Study, I think it was 2 called. The Virtual Network Study, which was this 3 funded project, of which sexting was part, of which 4 the substance use data was from, so 22 isn't a magic 5 number. That's the number that we had started with, 6 that we had decided to do. We were one of the first 7 people to do such a study, trying to get a national 8 sample.</p> <p>9 Q I see.</p> <p>10 A As far as I know, at the time we got funded. It may 11 be different now. They haven't published data, as 12 far as I know.</p> <p>13 Q Okay. So I understand the seed selection process, 14 and now if we could kind of walk through the 15 referral process. Once somebody is a seed, how can 16 they then refer the study to their friends and 17 acquaintances?</p> <p>18 A Well, we went through a couple iterations about 19 that. At first, we said to them, Give us their 20 name, and we'll send them an invitation. And that 21 didn't work so well, because they weren't willing to 22 give us their names. And the ones that did, then 23 we'd contact them, and they're, like, How'd you get 24 my name? Who are you? Is this the federal 25 government? We're, like, No, we're not the federal</p>	<p>1 Then we upped it up to, you can 2 nominate as many as you want, and if you get five, 3 you can make another \$50, we're going to give you 4 \$10 if five of your friends fill out the 5 questionnaire. If seven do, we're only going to 6 give you five, 50, so they could make 70. So we 7 actually also found the point where people were 8 motivated to start doing it; you know, 50 wasn't 9 enough, 70 was, so sort of interesting phenomenon, 10 actually.</p> <p>11 Just as an aside, there was a 12 researcher, who was here, he's now at Harvard, and 13 he's done national studies. He's been doing studies 14 about -- he's very well known for doing comorbidity 15 studies. His name is Ron Kessler. He's done 16 studies where he looks at the comorbidity of 17 substance use and psychiatric diagnosis, right, and 18 that was really big in the time.</p> <p>19 And he also had trouble with, well, 20 what about my nonrespondents, 'cause that's always 21 the issue in our research, right, to come back to 22 our earlier conversation, is what about the 23 nonrespondents. And if you don't have any sense of 24 who they are, how do you know how representative 25 your sample can be? The nonrespondents may be just</p>
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<p>1 government. We're funded by the feds, but we're not 2 the federal government, we're University of 3 Michigan, but they're still, like, no way.</p> <p>4 So what we ended up doing is we said, 5 Why don't you tell your friends to contact us, and, 6 if they do, we'll pay them \$20 to fill out the 7 questionnaire, and we'll pay you \$10 more if they do 8 it; you know, again, we're trying an incentivized 9 system.</p> <p>10 It's not unusual to pay people for 11 participation; I mean, that's pretty typical to do 12 that. And we thought we were doing this 13 innovatively enough. And, quite frankly, it was 14 part of the stimulus, and even though it's a little 15 bit of money, we wanted to get money out. We were 16 trying to be socially conscious and address those 17 issues at the same time of doing the study, and, you 18 know, helping do the study.</p> <p>19 So people could nominate, or they 20 could get paid for up to -- we first did three, 21 nominate up to three people, you'll make 20 and 22 another three, and we didn't get very many hits. 23 Then we changed, and said, Okay, instead of 24 contacting us, you contact those three, have them 25 contact us, and it didn't really hit.</p>	<p>1 the same people you don't have, and so it's 2 representative, or they might be all the people who 3 are paranoid because of the drugs they use and 4 you're getting a biased sample.</p> <p>5 And it was sort of an interesting 6 thing what he did, is he then -- and I don't know if 7 he's ever published it, but I saw him give a talk 8 before he left here, he was here still. And what he 9 did is he called the nonrespondents, went back to 10 the nonrespondents, basically, and said, say -- they 11 gave them like, I don't know, \$50 for the survey -- 12 they said, If we gave you \$100, would you do it? 13 No. How about 200? Nope, no, not interested. How 14 about 500? Okay, you got me, right? So he actually 15 tried to see where it was, and he offered people 16 money, he got a grant to do this, and so some people 17 made \$500 to do this survey evidently.</p> <p>18 And then he looked at the people that 19 he bribed. I mean, again, I put that in quotes, 20 bribed. I mean, he didn't really bribe them, but 21 wanted to see at what point -- because, what he's 22 trying to do, is sample his nonrespondents, and then 23 he wanted to see how do they look compared to the 24 respondents that he got. And he found no 25 differences, that they were really, they were just</p>

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<p>1 like the people. They were just people that don't</p> <p>2 like to do surveys, for whatever reason, but</p> <p>3 everybody had a price. It was sort of an</p> <p>4 interesting little thing that he did. Again, I</p> <p>5 don't know if he ever published it. So I don't know</p> <p>6 why I told you that story, but. . .</p> <p>7 Q There was an economic motivation for people to</p> <p>8 participate in your surveys.</p> <p>9 A Right. We live in an economically-motivating</p> <p>10 society.</p> <p>11 Q Would a wealthier person have had less incentive to</p> <p>12 participate in your survey if that person didn't</p> <p>13 need the gift cards?</p> <p>14 A I don't think that would matter for</p> <p>15 18-to-24-year-olds, honestly. I mean, you know,</p> <p>16 when you think about, you know, I don't know, a</p> <p>17 Kennedy going to school, I don't think he's going to</p> <p>18 decide or not decide because of \$70, right? I don't</p> <p>19 think he's going to say, I don't need the money, I'm</p> <p>20 not going to do it. He might do it just 'cause this</p> <p>21 could be fun. I don't think that would be the case.</p> <p>22 I'd be more worried about the much</p> <p>23 lower end of the population than the higher end of</p> <p>24 the population. You know, I mean, you could argue</p> <p>25 that the more affluent will try to get as much money</p>	<p>1 because it's not so much money, right, but it's just</p> <p>2 enough to get their attention, you know what I mean?</p> <p>3 And they didn't necessarily know it when they</p> <p>4 went -- although maybe we did put that in, that you</p> <p>5 could make some extra money on the ad: Want to do a</p> <p>6 study, make some extra money, click on that.</p> <p>7 Q So the original Facebook advertisement for</p> <p>8 recruiting seeds --</p> <p>9 A I think it did. I don't remember exactly. I think</p> <p>10 we did. I think we may have put it there. We had</p> <p>11 to tell them up front very early on; you know,</p> <p>12 that's a requirement of the Institutional Review</p> <p>13 Board, our Human Subjects Protection. I don't know</p> <p>14 if we put it in the ad or not. They may have</p> <p>15 required us to put it in the ad as well.</p> <p>16 Q So any concern about undersampling people on the</p> <p>17 lower economic side would have been because those</p> <p>18 people don't necessarily have access to technology,</p> <p>19 certain technologies.</p> <p>20 A Or easy access to the internet, and so maybe they</p> <p>21 see it today, but, you know, it's, like, well, I'm</p> <p>22 not going to come to the library again to use the</p> <p>23 internet, 'cause I'm working all the rest of the</p> <p>24 week, so forget that; it's possible.</p> <p>25 I don't remember the range of the</p>
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<p>1 as they can, and, why not, this would be an easy way</p> <p>2 to make 70 bucks. And if they're coming from a</p> <p>3 background where money is a big driver in their</p> <p>4 families, their parents might say, Why didn't you do</p> <p>5 that for \$70, for goodness sake; it took an hour of</p> <p>6 your time, all you do is tell some friends. So I</p> <p>7 don't know that would be a good argument.</p> <p>8 Now, access to the internet, you</p> <p>9 know, in our population, how many Native Americans</p> <p>10 are in our study? You know, they're less than one</p> <p>11 percent of the U.S. population; we probably don't</p> <p>12 have too many of them, honestly, we probably don't.</p> <p>13 I don't remember. I'm sure it was so small, it was</p> <p>14 probably in an "other" category.</p> <p>15 So I would be more concerned with the</p> <p>16 lower end, that maybe, you know, we might not have</p> <p>17 them, but I would also argue that, you know, for</p> <p>18 sexting, the lower end probably don't have cell</p> <p>19 phones, or might not be using cell phones in this</p> <p>20 way, might be behaving really different, anyway, but</p> <p>21 I'm talking about the much lower end of people,</p> <p>22 right?</p> <p>23 So I don't think the monetary</p> <p>24 incentive really had much effect one way or the</p> <p>25 other. I do believe that that's probably true,</p>	<p>1 socioeconomic status of people, but, as I recall, it</p> <p>2 was not super narrow, but I'm sure the tails were</p> <p>3 probably not included, right; you know, the tails</p> <p>4 may not have been included; it's possible. But I</p> <p>5 think the tail that would be more likely than the</p> <p>6 higher tail would be the lower tail.</p> <p>7 Q Okay.</p> <p>8 A But I would say we have probably pretty good swath</p> <p>9 of the middle, really good swath of the middle.</p> <p>10 Q Were most of the participants referred in the study</p> <p>11 to friends using computers?</p> <p>12 A I don't know. Ask the question again.</p> <p>13 Q So there are different ways a person could have</p> <p>14 referred the study to a friend, correct?</p> <p>15 A Right.</p> <p>16 Q You could have posted a link on your Facebook page.</p> <p>17 A Yes.</p> <p>18 Q You could have sent an email with the link.</p> <p>19 A Correct.</p> <p>20 Q I could have told somebody in person.</p> <p>21 A Correct. Probably less likely, because the link</p> <p>22 would be such a pain in the neck, frankly, so it's</p> <p>23 probably easier to have sent it in an email, 'cause</p> <p>24 then you can just click on it, and people know that.</p> <p>25 Q So it's probable that most of the referrals were</p>

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<p>1 made via electronic --</p> <p>2 A I think that would be safe to say, although I don't</p> <p>3 really know that, but I think that would be safe to</p> <p>4 say.</p> <p>5 Q Okay. You didn't keep track of the way referrals</p> <p>6 are made in the study.</p> <p>7 A I don't think we had a question about that, no,</p> <p>8 'cause we assumed it was going to be, more or less,</p> <p>9 on the web.</p> <p>10 Q Okay. Once somebody took the study once, were they</p> <p>11 able to access it and take it a second time?</p> <p>12 A Well, you're a pretty smart guy. What happened was</p> <p>13 we found that that could be possible, right, because</p> <p>14 it's, like, how do we know? You know, you do a</p> <p>15 random digit dialing, how do you know it's not the</p> <p>16 same person who picks up the phone and says, oh,</p> <p>17 yeah, right, it's me; again, I mean, it's the same</p> <p>18 problem.</p> <p>19 I remember talking to somebody about</p> <p>20 how I would never, you know, send something on the</p> <p>21 internet with my credit card, oh my gosh, anybody</p> <p>22 could get it. You know, this person, who was --</p> <p>23 this is just when e-commerce was starting, so this</p> <p>24 was like 10, 15 years ago -- he said, Are you</p> <p>25 kidding? Like, when they swipe your card, or do it</p>	<p>1 you know, you could have your friend over, who said,</p> <p>2 Fill it out right now before you go home, or it</p> <p>3 could be your roommate. Those could be legitimate.</p> <p>4 But if you threw them out, what would happen to the</p> <p>5 sample and how would things differ?</p> <p>6 And we found that you didn't have to</p> <p>7 be super strict about that, that it didn't happen as</p> <p>8 much as you think, and you didn't have to be super</p> <p>9 strict. I think it was about 20 percent, but don't</p> <p>10 hold me to that either; in other words, "it" being</p> <p>11 where we weren't completely sure it was a completely</p> <p>12 different person, one in five. And then there were</p> <p>13 different things we did that occasionally we did</p> <p>14 throw people out. You know, you could tell -- there</p> <p>15 was some ways we could tell, and I'd have to ask the</p> <p>16 graduate student, who worked on the study. I don't</p> <p>17 know if she's on this paper or not.</p> <p>18 But her job that summer was to do</p> <p>19 exactly this, was to do exactly this, was to</p> <p>20 double-check all these kinds of things. And she</p> <p>21 actually became very sleuth-like about it, in terms</p> <p>22 of time, when they did it, their IP address. There</p> <p>23 were different ways that we did it. Did we catch</p> <p>24 100 percent? No, I doubt it. Did we catch enough</p> <p>25 where we're pretty comfortable with the data?</p>
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<p>1 on paper, you don't think it's pretty easy just to</p> <p>2 write down that number when they go to the bathroom,</p> <p>3 and they can write down the number and then they</p> <p>4 have your number, what's the difference? Well,</p> <p>5 yeah, I guess that's true, right? Similarly here.</p> <p>6 But what did we do? Well, IP</p> <p>7 addresses. But this is one of the reasons why it</p> <p>8 got very expensive, this is one of the biggest</p> <p>9 reasons, is we were double-checking our data.</p> <p>10 And we actually wrote a paper on how</p> <p>11 strict the definition you want to use for whether or</p> <p>12 not people were, you know, cheating, how often did</p> <p>13 people cheat. And you could tell sometimes, 'cause</p> <p>14 they're not very good cheaters, right; they start</p> <p>15 answering the questionnaires exactly the same way,</p> <p>16 or they're coming from the same IP address, and, you</p> <p>17 know, all of a sudden they're a completely different</p> <p>18 kind of person.</p> <p>19 I don't remember all the details, but</p> <p>20 what we ended up doing was checking every single</p> <p>21 person in this way, and so we had some sense of</p> <p>22 whether it was the same IP address and whatnot. And</p> <p>23 then we did a paper, and don't ask me the details of</p> <p>24 this paper, but it, basically, you know, if you</p> <p>25 limited it to only one IP address per person, well,</p>	<p>1 Absolutely.</p> <p>2 Q And when you did catch a participant, who you had</p> <p>3 reason to believe was the same person, was a</p> <p>4 duplicate, you threw that person's data out?</p> <p>5 A The second one, not the first one.</p> <p>6 Q Okay.</p> <p>7 A And we have no reason to believe that they lied on</p> <p>8 the data. We just figured that they were just</p> <p>9 trying to get another \$150 or another \$70 to make it</p> <p>10 150, that's the only thing.</p> <p>11 Q Right.</p> <p>12 A They probably saw it as being easy money, right?</p> <p>13 Q Right.</p> <p>14 A I mean, super easy money, 20 bucks. They spend a</p> <p>15 half an hour on the questionnaire and make 20 bucks,</p> <p>16 then they get to refer four more people, who they</p> <p>17 can tell how to cheat, you know. But it wasn't as</p> <p>18 easy as it seemed. It was possible, but not as easy</p> <p>19 as you might think. We did have our ways of</p> <p>20 detecting.</p> <p>21 Q Okay. We spoke earlier about the spectrum of sample</p> <p>22 of convenience and ideal, platonic random sample;</p> <p>23 where on that spectrum does the sampling methods</p> <p>24 used for your study fall?</p> <p>25 A You know, I had a feeling you were going to ask me</p>

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<p style="text-align: right;">Page 137</p> <p>1 that. When I gave that example, I knew you were 2 going to come back to this. I don't know quite how 3 to say it. I would say better than average. I 4 mean, what are the anchors? The gold standard, 5 which nobody gets; you know, people on the street 6 corner. Average might be, I would say, maybe below 7 average would be, unless -- well, I would say above 8 average. I would say above average. You know, I'd 9 say, given that our confidence in it being somewhat 10 representative and our catching, and all that kind 11 of stuff, I'd say probably far above average. 12 I think that this is a technique 13 that, when I do another study, I'm going to use this 14 technique. That's how confident I am in it, that I 15 would do it again. I learned some lessons, in terms 16 of how to catch people, or, more importantly, how to 17 get the seeds. I mean, we took bets at the 18 beginning. You know, I don't know if you've had any 19 friends who had babies, and I've never done this, 20 but, you know, where you guess when the baby is 21 going to be born, and you put a pool in. It's kind 22 of stupid, but we did the same thing, not stupid, 23 but how long it would take to fill it up, you know, 24 to get our sample of 3,000, which is what we were 25 shooting for.</p>	<p style="text-align: right;">Page 139</p> <p>1 it matches up with Census data pretty well, not 100 2 percent, but pretty well, and it matches up with the 3 National Drug Use data, that we have a pretty good 4 national sample. And I'm really confident that we 5 have a sample of those who use the internet. I'm 6 really confident of that. 7 MR. SWINTON: I think this might be a 8 good stopping point. 9 (Break was taken from 11:25 to 11:55 a.m.) 10 BY MR. SWINTON: 11 Q Dr. Zimmerman, did you speak with anybody about the 12 deposition during the break we just had? 13 A No. 14 Q Okay. I wanted -- 15 A Well, maybe. I mean, does it count that I told my 16 secretary that I was still in the deposition? It 17 wasn't about the content, but it -- that doesn't 18 count, does it? 19 Q No, that's fine. 20 A Okay. 21 Q I wanted to circle back and talk a little more about 22 the sampling method you used for your study on 23 sexting. Now, in your article you discuss the 24 number of participants, so, for example, on page 25 two, at the top --</p>
<p style="text-align: right;">Page 138</p> <p>1 And we thought, like, okay, this is 2 the timing for things, we were going to get there in 3 two months. It took longer, because we faltered in 4 the beginning. The next time, I think we'll get 5 there in two months potentially, because after a 6 while it was really difficult to stay up because 7 there was so many people who were coming in, 8 because, well, you know, one becomes five, five 9 becomes 25, 25 becomes 125, and, you know, times 22, 10 right, so it goes pretty fast pretty quickly. 11 Some die, some of those generations 12 die; you know, we get to somebody, they stop 13 referring. And some, we had to cut off; we 14 basically said we're not going to go deeper than 15 this on any one of them. And if that was the case, 16 or if one died before we kinda got a certain number, 17 and I don't remember exactly our decision rules, we 18 would re-open it and add for a period of time. We 19 didn't reopen it ad nauseam, so -- I'm trying to 20 think. 21 We talked about whether we would do 22 it that way or whether we would just let one keep 23 going to get our end. I don't remember what we did, 24 now that I'm saying this out loud. I don't remember 25 that. But I would say that our sample, given that</p>	<p style="text-align: right;">Page 140</p> <p>1 MR. BAUMGARDNER: This is Defendant's 2 Exhibit 3? 3 BY MR. SWINTON: 4 Q ZX 3, page two, on the second column at the top, you 5 say, "The full sample," and, in parentheses, you 6 have "N= 3,447." 7 A Um-hum. 8 Q What is that number; what was the full sample? 9 A That's the number of people that responded to our 10 questionnaire. And then we weight it, as we say 11 later, based on some factors, and so it becomes a 12 smaller sample, because if you're in -- you know, 13 there's a whole science about weighting in 14 questionnaires, and it's not my forte. This is what 15 Eric Volz was there for, 'cause it is one of his 16 things. It's something epidemiologists do very 17 much, because they're trying to get the best 18 estimates possible, right? 19 So weighting basically says, if you 20 are overrepresented in a sample, we're going to 21 discount your answer, like multiply your answers by 22 0.05 or something, and so it reduces the sample. 23 But that's then the idea it's weighted and takes 24 into considerations some of the biases that may be 25 possible so that you can get to the error rate we</p>

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<p>1 talked about way before, okay?</p> <p>2 So this is the full sample of all the</p> <p>3 people who respond to our questionnaire, and then we</p> <p>4 take into account, you know, the nesting of the</p> <p>5 variable, I mean of the people within a particular</p> <p>6 generation.</p> <p>7 Q So when you weight the number of participants,</p> <p>8 you're not actually excluding anybody's data from</p> <p>9 the results --</p> <p>10 A No.</p> <p>11 Q -- using the weighting.</p> <p>12 A It's an algorithm where you weight their variables</p> <p>13 in a different way, yeah.</p> <p>14 Q So after you weighted it, you said you had 827, the</p> <p>15 number equaled 827, correct?</p> <p>16 A Right.</p> <p>17 Q And from that, you performed an attrition analysis.</p> <p>18 A Um-hum.</p> <p>19 Q Which is discussed on page three of Zimmerman</p> <p>20 Exhibit 3.</p> <p>21 A Right.</p> <p>22 Q And the attrition analysis you are removing people</p> <p>23 from the sample, correct?</p> <p>24 A Correct, because they may have missing data, right?</p> <p>25 So they may have skipped a sexting question, for any</p>	<p>1 Q And you had 67 people had missing data about</p> <p>2 sexting, correct?</p> <p>3 A Right.</p> <p>4 Q Out of 827.</p> <p>5 A Right.</p> <p>6 Q And you have some information about --</p> <p>7 A By the way, excuse me for interrupting, but when</p> <p>8 it's less than 10 percent attrition, sometimes</p> <p>9 people say don't even bother. I don't believe that.</p> <p>10 I think it's always useful to know how the people</p> <p>11 didn't respond; it goes back to that other study I</p> <p>12 was talking about, so that's why we did it. But</p> <p>13 this is a very acceptable range of either</p> <p>14 nonresponse or missing data, or whatever.</p> <p>15 Q Okay. And there's some information about the 67</p> <p>16 participants who had missing sexting data; for</p> <p>17 example, more of them were males, more were</p> <p>18 non-sexually active participants, et cetera. Did</p> <p>19 you re-weight the data based on --</p> <p>20 A No. Based on these data, no.</p> <p>21 Q So you didn't re-weight the data based on the</p> <p>22 participants with missing sexting data.</p> <p>23 A No.</p> <p>24 Q And is that something that's typically done in your</p> <p>25 field?</p>
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<p>1 number of reasons: They didn't see it, they didn't</p> <p>2 feel comfortable answering it; you know, those are</p> <p>3 probably the two biggest reasons. Probably skipping</p> <p>4 it accidentally is usually it. There's no reason</p> <p>5 why they wouldn't answer this, but they would answer</p> <p>6 questions about marijuana use.</p> <p>7 I don't know how long this law has</p> <p>8 been in effect. I don't know if they would have</p> <p>9 even known about this law, you know, but there were</p> <p>10 already reporting of illicit behaviors that could</p> <p>11 end them up in, you know, trouble, felonous</p> <p>12 behavior. So my bet is they just happened to skip</p> <p>13 it, or, what happens a lot of times, is they fill</p> <p>14 out as much of the questionnaire as, you know, maybe</p> <p>15 half of it, and they figure, okay, if I do half,</p> <p>16 I'll get the money, or they've stopped and forget to</p> <p>17 go back, or they -- there's all sorts of reasons why</p> <p>18 people may have skipped the item.</p> <p>19 I doubt that there's very many who</p> <p>20 would have skipped it, given the rest of the</p> <p>21 questions. So the attrition analysis is for the</p> <p>22 people who didn't answer the variables in the study.</p> <p>23 So here we want to see how might our sample for this</p> <p>24 particular analysis be biased from our larger</p> <p>25 sample.</p>	<p>1 A Typical, yes. You don't re-weight because of some</p> <p>2 missing variables in the study, especially if it's</p> <p>3 less than 10 percent.</p> <p>4 Q Okay.</p> <p>5 A What you typically would do is, you wouldn't weight,</p> <p>6 you would do missing data analysis. There are</p> <p>7 algorithms that you can use to -- the word is lost,</p> <p>8 left my mind for the moment -- but where you fill in</p> <p>9 the missing data with information that you have on</p> <p>10 the people who have data. And you look at the</p> <p>11 variables that they don't have, or variables that</p> <p>12 they do have, and see what somebody like them would</p> <p>13 have said, and then you use that. And</p> <p>14 there's multiple -- imputation. You would impute</p> <p>15 the data. You wouldn't re-weight the data, you</p> <p>16 would impute the data. And then there's different</p> <p>17 ways to do that. You typically do that in</p> <p>18 longitudinal studies. You don't typically do that</p> <p>19 in survey studies with only 10 percent missing data</p> <p>20 or less.</p> <p>21 Q So if it's 10 percent or less, you don't typically</p> <p>22 impute the data for the attrition analysis.</p> <p>23 A No. And usually the differences are not huge, and</p> <p>24 we didn't think they were huge in this case either.</p> <p>25 Q Okay. Another thing you did is -- strike that. One</p>

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<p>1 thing you did is you looked at your sample and</p> <p>2 certain demographic characteristics; so, for</p> <p>3 example, you looked at the proportion of males, the</p> <p>4 proportion of females, and the breakdown by race or</p> <p>5 ethnicity, correct?</p> <p>6 A Yes.</p> <p>7 Q Did you find that your sample had the same</p> <p>8 demographic characteristics --</p> <p>9 A As a national sample?</p> <p>10 Q -- as a national population?</p> <p>11 A You know, I looked at that the other day, and it was</p> <p>12 darn close. We had a little bit more people, and I</p> <p>13 don't know statistically what it was, but there were</p> <p>14 more people -- I looked at this in, I think, in the</p> <p>15 Northeast, than there are in the population, in our</p> <p>16 sample, than there are in the population. And we</p> <p>17 had fewer people from the West in our sample than</p> <p>18 there in the normal population, but, for the most</p> <p>19 part, demographically it was actually pretty</p> <p>20 similar.</p> <p>21 I don't remember the exact results.</p> <p>22 You know, it's sort of funny, I remember that the</p> <p>23 male-female was almost exactly the same. It was</p> <p>24 sort of scary how close it was. It was less than</p> <p>25 one percentage point similarity.</p>	<p>1 A It can be known, but because we weren't specifically</p> <p>2 interested in prevalence of sexting, we didn't</p> <p>3 calculate it, so I don't know what it is.</p> <p>4 Q So you didn't mention an error rate in your article,</p> <p>5 in other words.</p> <p>6 A Correct.</p> <p>7 Q What do you mean that an error rate can always be</p> <p>8 known?</p> <p>9 A Well, you know that, if you have the data, you can</p> <p>10 calculate it, right? The error rate is a little bit</p> <p>11 different than the confidence interval necessarily.</p> <p>12 The standard deviation is your error rate in your</p> <p>13 sample, right? And so, if we know the mean, if you</p> <p>14 can calculate a mean, you can calculate standard</p> <p>15 deviation, because you know the variance around that</p> <p>16 mean, and so that's your error rate for your sample,</p> <p>17 and that's known. And I don't know that we reported</p> <p>18 that here. I just don't know.</p> <p>19 This was percentages, so it's</p> <p>20 slightly different than just means, but I just don't</p> <p>21 remember if we report it here or not, but it's</p> <p>22 knowable, because we have the data.</p> <p>23 Q Okay.</p> <p>24 A Could I calculate it? Could I figure it out?</p> <p>25 Probably, we could. But I don't know if we reported</p>
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<p>1 The ethnic groups, I think, were</p> <p>2 within the range, but I don't remember. But when we</p> <p>3 compared it, we were pretty satisfied, at that time,</p> <p>4 and that paper. We probably cite it in here, so you</p> <p>5 can go read it, and they'll be a quiz later.</p> <p>6 Q What's the range that you just referred to?</p> <p>7 A The range, that 95 percent confidence interval that</p> <p>8 we've talked about that plus or minuses within the</p> <p>9 error. You could take two samples and they're never</p> <p>10 going to be perfect. That's why I was so shocked</p> <p>11 they were so close. I think they were, like, within</p> <p>12 0.03, 0.03 percent, in terms of gender. That's what</p> <p>13 sticks in my head that jumped out.</p> <p>14 In terms of other ethnic groups, I</p> <p>15 don't really remember, but I think they were all</p> <p>16 within the range of, you know, that error rate.</p> <p>17 Q Do you recall what the error rate specifically was</p> <p>18 for this study?</p> <p>19 A No, I don't. I don't.</p> <p>20 Q But there was an error rate?</p> <p>21 A Well, you know, we didn't do this in a prevalence</p> <p>22 way, which is why we didn't actually calculate it,</p> <p>23 but the answer is, there's always an error rate.</p> <p>24 There's always an error rate, right?</p> <p>25 Q Okay.</p>	<p>1 it here. I won't take our time to look it up, but,</p> <p>2 if you want, I will.</p> <p>3 Q One thing I was interested in is, on page five of</p> <p>4 Exhibit 3, second column in the first paragraph</p> <p>5 that's on the top of the second column, you have a</p> <p>6 sentence, it says, "Second, owing to our sampling</p> <p>7 methods, some racial and educational groups were</p> <p>8 under-represented and our results may not be</p> <p>9 generalizable to the" --</p> <p>10 A Where are we?</p> <p>11 MR. BAUMGARDNER: Yeah, I'm sorry.</p> <p>12 BY MR. SWINTON:</p> <p>13 Q Page five.</p> <p>14 A Yeah.</p> <p>15 Q The second column.</p> <p>16 MR. BAUMGARDNER: Can you just point</p> <p>17 it out on the page.</p> <p>18 MR. SWINTON: It's right under the</p> <p>19 table.</p> <p>20 MR. BAUMGARDNER: Oh, okay. All</p> <p>21 right.</p> <p>22 A So there I'm being a little bit more circumspect,</p> <p>23 because of all the things we talked about earlier,</p> <p>24 right, about no sample is perfect, right?</p> <p>25 Q Just for the record, so we have it, this is the</p>



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<p>1 sentence that says, "Owing to our sampling methods, 2 some racial and educational groups were 3 under-represented and our results may not be 4 generalizable to the YA population as a whole." 5 A Right. Right. 6 Q And so go on, you're saying here that some of the 7 groups are under-represented. 8 A We are saying exactly what I said before, which is 9 that every sample has limitations, every study has 10 some limitations of one kind or another. And in 11 this example, we are also limited. So, for example, 12 we may not have very many Native Americans in our 13 sample, right? In terms of -- I don't know what our 14 rates were of these groups, of the four main groups, 15 but, you know, note that we didn't start with any 16 Asian seeds, but we -- I don't think we didn't start 17 with any Asian seeds -- but we ended up with Asian 18 Americans in our sample. 19 So the bottom line is there could be 20 that some groups, because we don't have that perfect 21 random sample, were not completely represented. And 22 if I had that table, comparing to our national data 23 to the Census data, I'd be able to answer your 24 question more precisely, that we might have been, on 25 one of the groups, outside of that 95 percent of</p>	<p>1 educational groups. We have not as many people who 2 are not in high school, or had not completed high 3 school, for example. 4 Q It might help, maybe we could look at the Census 5 data, and I think -- 6 A Did you have that paper? 7 (Zimmerman Deposition Exhibit No. 4 8 was marked for identification.) 9 A This is the table I think I was looking at. 10 Q Just, for the record, I just handed you a document 11 marked Zimmerman Exhibit 4. It's an article 12 entitled Innovative Recruitment Using Online 13 Networks, and you are a co-author of this paper, 14 correct? 15 A Yes. 16 Q So, I believe, the table is on the third page of 17 this article, that might be helpful. 18 A Yep, Table 1, that's what I'm talking about. 19 Q It has Census data. 20 A Look at that, I remembered sex almost exactly; I did 21 remember it was 0.03. That's amazing. 22 Q So the information in the middle column, since this 23 was all -- 24 A The middle column is the weighed data, so I think 25 that's what we're going to pay attention to.</p>
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<p>1 plus or minus kind of thing. And, you know, you can 2 do a statistic to test that, and I don't remember 3 what those were. 4 I can say confidently, though, we 5 don't have a wildly crazy sample here. I'm pretty 6 confident that we don't have a wildly crazy sample. 7 Could you poke holes in some pieces of it? I would 8 agree, as I already did, in the record for 9 perpetuity, now again, in two different records. 10 Q Those holes would be under-representation of certain 11 racial and educational groups. 12 A Possibly, yeah. For example, I think the 13 educational groups is, our sample is slightly more 14 educated than the population. Now that I'm thinking 15 about it, that was one that, our sample had more 16 college students, or some college, than the general 17 population, so our group is a little bit more 18 educated. Higher SES, remember what you said, 19 presumably, what you said before, not necessarily. 20 But we know education is correlated with 21 socioeconomic status, that's what SES says. 22 And so, like I was saying before, if 23 we have any distribution of economic tails, it's 24 probably the lower end, for that fact that I just 25 told you. So I think that's what we mean by</p>	<p>1 Q And because both articles were based on analyses of 2 the same data, we can just look at Table 1 in this 3 article, correct; we don't have to go back and look 4 at the data in the 2012 article, in determining the 5 representation of the population of the study, 6 correct? 7 A Yes, I think that is correct. I'll just 8 double-check, but I think the answer is, yes. We 9 actually had two less respondents, so I don't know 10 why we have had two less respondents, but I would 11 say, yes, that's correct. 12 Q Just to be sure, why don't we compare the answers in 13 Table 1 on page four of Defendant's Exhibit 3. 14 A To the Census data -- 15 Q Yeah, to the Census data in Defendant's Exhibit 4. 16 A Okay. 17 Q So, for example, the under Race, the black or 18 African American percentage in the sexting study was 19 five percent, and in the 2010 U.S. Census it's 20 12.6 percent. 21 A Correct. 22 Q And you don't recall what your margin of error was. 23 A No, but I would be surprised if that wasn't outside 24 the margin of error, so that's one of the examples 25 of maybe ethnic groups were not as well represented.</p>

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<p>1 But I don't remember that exactly, but it would be</p> <p>2 surprising to me if that would not be out of the</p> <p>3 range.</p> <p>4 Q So that was probably outside of the margin of error.</p> <p>5 A Um-hum. By the way, when we're looking at Table 4,</p> <p>6 just for the record -- I mean on page four, Table</p> <p>7 1 -- from the sexting study, this is not exactly the</p> <p>8 same sample as that one, because this is only the</p> <p>9 760, so these are the people with some missing data</p> <p>10 on the variables; whereas, this is the sample,</p> <p>11 that's just the description of the sample which</p> <p>12 exists, but if they didn't answer a question, they</p> <p>13 might not be in this data.</p> <p>14 MR. BAUMGARDNER: When you say,</p> <p>15 "this," why don't you specify which table.</p> <p>16 A The table in the Bauermeister, et al., study, ZX 4,</p> <p>17 includes our sample. The table that we're looking</p> <p>18 at in the sexting study, Gordon-Messer, et al., is</p> <p>19 only those people that had the data for whom</p> <p>20 analyses were done, or the ones that we did the</p> <p>21 analysis on for that paper, the sexting paper,</p> <p>22 right? So that's why -- making it confusing. Do</p> <p>23 you understand what I'm saying?</p> <p>24 BY MR. SWINTON:</p> <p>25 Q I do. Which set of data were your conclusions in</p>	<p>1 Q Sure. So in the sexting study --</p> <p>2 A That's what explains it, is we have a larger number</p> <p>3 of Asian Americans than the general population.</p> <p>4 Q The sexting study, you had 11.2 percent, and in the</p> <p>5 U.S. Census data it's 4.8 percent.</p> <p>6 A Right.</p> <p>7 Q Okay. So those are some of the disparities in the</p> <p>8 racial demographics. And then, I think, you also</p> <p>9 mentioned education, so in the --</p> <p>10 A We don't really have it broken down in the Table 1</p> <p>11 of the sexting paper, but if you look at it in the</p> <p>12 other paper, just comparing those, you can see we</p> <p>13 have very few people with less than an eighth-grade</p> <p>14 education, comparatively.</p> <p>15 Q Right.</p> <p>16 A And sometimes it's not just the difference between</p> <p>17 the two, but it's the percentage of the difference</p> <p>18 given the total kinda thing, right? So 0.01 versus</p> <p>19 1.9 might actually be a bigger difference</p> <p>20 statistically than five to 12.5, just as an example.</p> <p>21 Q Because 0.01 is such a small number.</p> <p>22 A Yeah.</p> <p>23 Q And a small proportion of 1.9.</p> <p>24 A Exactly. That's the key, it's proportionate. And</p> <p>25 you can see also that we have a little higher</p>
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<p>1 your sexting studies based on?</p> <p>2 A Based on page four of the sexting study.</p> <p>3 Q Okay.</p> <p>4 A So why don't we look at that.</p> <p>5 Q Correct. Okay. That seems like a good idea to me.</p> <p>6 And so what we just looked at was the black, African</p> <p>7 American, population. In the sexting study, it was</p> <p>8 five percent, and in the U.S. Census data --</p> <p>9 A It was 12.6.</p> <p>10 Q -- it was 12.6. So there the difference was 7.6</p> <p>11 percentage points, and you thought that probably is</p> <p>12 outside the standard of error.</p> <p>13 A Again, I'm guessing. I didn't do the calculation,</p> <p>14 but, you know, educated guess.</p> <p>15 Q Okay. Can look at a couple others. So Hispanic/</p> <p>16 Latino in the sexting study was 8.9 percent, and in</p> <p>17 the U.S. Census data it was 16.3 percent.</p> <p>18 A Um-hum.</p> <p>19 Q So do you think it's likely that was outside the</p> <p>20 margin of error?</p> <p>21 A Again, you know, probably. Maybe not, but probably.</p> <p>22 Q And the difference there is, if I'm to doing my math</p> <p>23 correctly, 7.4 percent.</p> <p>24 A That's right. And then, as long as you're doing it,</p> <p>25 go the other way, too, with the Asian Americans.</p>	<p>1 educated people in our sample, which you could</p> <p>2 argue, and I would, and this is why I think the</p> <p>3 peer-reviewed process accepted it, was that, because</p> <p>4 we're interested in internet use, who are the people</p> <p>5 more likely to use the internet? And they are</p> <p>6 probably also the more likely people to be using</p> <p>7 cell phones for sexting, because they have the more</p> <p>8 highfalutin phones that make that relatively easier</p> <p>9 to do.</p> <p>10 My wife can do it on her cell phone,</p> <p>11 as old as it is, but it's not as easy as an iPhone,</p> <p>12 you know, I mean, or much less expensive. You know,</p> <p>13 smart phone, it's really easy, take a picture and</p> <p>14 send it, right? And so the bias that we think we</p> <p>15 have in our sample is actually, I would argue, would</p> <p>16 be probably working against our percentages</p> <p>17 potentially, right, because we are getting the</p> <p>18 people who are actually doing it, so by not</p> <p>19 including them -- let me say it a different way. By</p> <p>20 not including people who are less likely to text,</p> <p>21 you know, what we're trying to generalize to is the</p> <p>22 more appropriate population, I guess, is what I'm</p> <p>23 trying to say.</p> <p>24 It was like what I was saying before,</p> <p>25 it depends on who you want to generalize to, right?</p>

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<p>1 So if we're generalizing to people who use</p> <p>2 technology, I'm more confident in that than, you</p> <p>3 know, broadening it to, you know, everybody, but</p> <p>4 that's kind of what we're saying here. Does that</p> <p>5 make sense?</p> <p>6 Q Yeah, so it's fair to say that this target</p> <p>7 population for your sexting study was people who use</p> <p>8 technology frequently.</p> <p>9 A Well, it was actually for internet. It was a</p> <p>10 virtual network study, so it was for people who use</p> <p>11 the internet.</p> <p>12 Q So that the sexting study, the target population was</p> <p>13 people who frequently use the internet.</p> <p>14 A I wouldn't use the word "frequently" in that</p> <p>15 sentence.</p> <p>16 Q Okay.</p> <p>17 A 'Cause I don't know how much they used it, but it's</p> <p>18 for people who use the internet, and for people who</p> <p>19 use social networking sites on the internet.</p> <p>20 Q So you weren't looking at people who don't use the</p> <p>21 internet.</p> <p>22 A Probably not. That's not where we started. And, as</p> <p>23 I said earlier, I think we probably didn't get very</p> <p>24 many people who don't use the internet to do our</p> <p>25 study, because you had to fill out the questionnaire</p>	<p>1 their data. I'll just leave it at that.</p> <p>2 Q So in this instance, instead of saying, Our results</p> <p>3 are not generalizable, you said, Our results may not</p> <p>4 be generalizable.</p> <p>5 A Right. What are I getting at? I'm not sure -- I'm</p> <p>6 leaving the possibility open that they could be</p> <p>7 generalizable. I still think, even though, some of</p> <p>8 the things we just pointed out, I still think that</p> <p>9 our rates are probably close, within that 95 percent</p> <p>10 confidence interval, once we have enough data to</p> <p>11 calculate it. I will be shocked if our data isn't</p> <p>12 in that 95 percent confidence interval, eventually.</p> <p>13 We don't know the answer to that yet,</p> <p>14 but, I have to tell you, what I was more surprised</p> <p>15 at is how little it happened, you know. I mean, I</p> <p>16 thought we would have even higher rates than this,</p> <p>17 frankly.</p> <p>18 Q And the rates are the comparison between the sample</p> <p>19 population from your study with the U.S. Census.</p> <p>20 A No, I'm just saying the rates of what we found</p> <p>21 sexting in our sample, I was actually surprised that</p> <p>22 it was as low as it was. I thought it would have</p> <p>23 been higher.</p> <p>24 Q Okay. Okay.</p> <p>25 A For all the reasons that I said, you know, but it</p>
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<p>1 on the internet; it was the only way to do it.</p> <p>2 Q And the target population wasn't people who use</p> <p>3 social networks.</p> <p>4 A The target population for the virtual network study,</p> <p>5 correct; however, we started with people who used</p> <p>6 social networking sites, right? But it's very</p> <p>7 possible that, as you went down in a generation from</p> <p>8 that seed, that one of their friend's friend's</p> <p>9 friend had a friend, who doesn't use social</p> <p>10 networking sites, and got an email and clicked on it</p> <p>11 and did it; that's certainly possible.</p> <p>12 Q What do you mean when you say that results may not</p> <p>13 be generalizable?</p> <p>14 A I teach my students to always be circumspect in</p> <p>15 their language. If you say, These are</p> <p>16 generalizable, you open yourself up to having to</p> <p>17 defend an undefendable position. So use tentative</p> <p>18 language, and you're safe, you're safer. And so</p> <p>19 maybe we can't, but maybe we can, right?</p> <p>20 It's a lot easier to defend that than</p> <p>21 it is to say, It is generalizable, 'cause then you</p> <p>22 have a different level of -- you have a different</p> <p>23 level of evidence, right? And so we use softer</p> <p>24 language to not get too far from our data, right? I</p> <p>25 try to teach my students to stay somewhat close to</p>	<p>1 was still pretty high. I mean, if it was very low,</p> <p>2 we couldn't have done these analyses, because we</p> <p>3 would have had too few people, right? It goes back</p> <p>4 to that statistical problem.</p> <p>5 What that number would have been, I</p> <p>6 don't know. If we had 10 percent, we probably would</p> <p>7 have done it, but it wouldn't have been as</p> <p>8 interesting. But I would be surprised if it isn't</p> <p>9 one in three young adults who are doing some of this</p> <p>10 behavior, one in four, but, again, who knows. We</p> <p>11 don't know yet for sure, definitively. We never</p> <p>12 know, really.</p> <p>13 Q I wanted to ask you a question back on your drug use</p> <p>14 study, which I think we said was Zimmerman Exhibit</p> <p>15 4.</p> <p>16 A Zimmerman Exhibit 4, oh, okay.</p> <p>17 Q The innovative recruitment.</p> <p>18 A Yeah, let's look at that, sure. Isn't there another</p> <p>19 table in there?</p> <p>20 Q I think that was the only one. So on that same page</p> <p>21 with the table, page 836, second column, under the</p> <p>22 heading Data Analytic Strategy, you talk about the</p> <p>23 95 percent confidence interval when you were</p> <p>24 estimating whether the data --</p> <p>25 A -- of substance use?</p>

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<p style="text-align: right;">Page 161</p> <p>1 Q Yeah, matched the national prevalence estimates.</p> <p>2 Now, can you remind me again, how did you arrive at</p> <p>3 the 95 percent confidence interval?</p> <p>4 A I'll answer that in just a second.</p> <p>5 MR. BAUMGARDNER: Take your time if</p> <p>6 you need to review the report.</p> <p>7 A There was a table that I saw, in maybe a different</p> <p>8 paper, that compares it to the national study. Was</p> <p>9 that another paper? Might have been a subsequent</p> <p>10 paper to this.</p> <p>11 Anyway, back to your question, how</p> <p>12 did we calculate the confidence interval. The</p> <p>13 actual algorithms, I don't remember, but you use,</p> <p>14 you know, the weighted data, and you -- how do you</p> <p>15 compute the prevalence -- you know, I didn't do</p> <p>16 that, so I don't know. I'll just say I don't know.</p> <p>17 I don't know how we did that. It's pretty standard,</p> <p>18 but I have to think about that for a minute, right?</p> <p>19 Let me think about that. I'll come back.</p> <p>20 BY MR. SWINTON:</p> <p>21 Q Okay.</p> <p>22 MR. BAUMGARDNER: I mean, you can</p> <p>23 take your time right now, if that would be helpful.</p> <p>24 MR. SWINTON: Limit it to making</p> <p>25 objections, right?</p>	<p style="text-align: right;">Page 163</p> <p>1 A Okay.</p> <p>2 Q About the drug use.</p> <p>3 A Wonder where I saw that. I'm just looking at her,</p> <p>4 not that we had talked about it. I just happened to</p> <p>5 look in that direction. That's why I turned this</p> <p>6 way immediately.</p> <p>7 I don't know where I saw that. There</p> <p>8 was another paper that we actually had a table, I</p> <p>9 thought we had a table. Maybe it was a table that</p> <p>10 we ended up not including because they asked us to</p> <p>11 take it out or something. I think it's reported</p> <p>12 here on 837, right, where our confidence interval</p> <p>13 is. And it shows you the 95 percent confidence</p> <p>14 interval, you know, for example, alcohol use,</p> <p>15 62.4 percent, confidence interval 59.1 to 65.7,</p> <p>16 right? And that's calculated on the issues. That's</p> <p>17 what that's telling you, that's what the CI is,</p> <p>18 that's what we're saying.</p> <p>19 Q Okay.</p> <p>20 A Okay?</p> <p>21 Q So you don't have the confidence intervals in your</p> <p>22 sexting study, though, correct?</p> <p>23 A Correct. Because, again, that wasn't a study about</p> <p>24 sexting prevalence.</p> <p>25 Q Okay.</p>
<p style="text-align: right;">Page 162</p> <p>1 MR. BAUMGARDNER: No, but I'm telling</p> <p>2 him, if he needs more time, you certainly weren't</p> <p>3 going to press him for an answer without letting him</p> <p>4 think about it.</p> <p>5 MR. SWINTON: Okay.</p> <p>6 THE WITNESS: Yeah, okay.</p> <p>7 A What you do is you get your standard error of your</p> <p>8 estimate, which is a statistical information based</p> <p>9 on your standard deviation and your mean and your</p> <p>10 sample size, and then you calculate the plus and</p> <p>11 minus like you would in a survey.</p> <p>12 BY MR. SWINTON:</p> <p>13 Q Right.</p> <p>14 A And then you say, okay, so here's our confidence at</p> <p>15 95 percent confidence interval. What I'm surprised</p> <p>16 about is why that's here. I don't remember the</p> <p>17 study. You probably have other papers, right?</p> <p>18 We'll get to it? Do you have the paper where</p> <p>19 actually there's a table of the relationship, I mean</p> <p>20 our sample and the national sample of study from</p> <p>21 SAMHSA?</p> <p>22 Q I don't --</p> <p>23 A You don't have that study.</p> <p>24 Q No, this is the only study I think you cited in your</p> <p>25 expert report.</p>	<p style="text-align: right;">Page 164</p> <p>1 A Right? But we, obviously, could calculate it, and I</p> <p>2 didn't calculate it. Maybe I should have calculated</p> <p>3 it before we came here today.</p> <p>4 Q So the confidence interval is ascertainable for the</p> <p>5 sexting data, it just wasn't listed in your article.</p> <p>6 A Correct.</p> <p>7 Q And the margin of error is also ascertainable, it</p> <p>8 just wasn't included in your article on sexting.</p> <p>9 A Correct.</p> <p>10 Q Okay.</p> <p>11 A Correct.</p> <p>12 Q And so, when we look at page 837 where you just</p> <p>13 pointed out, and the confidence interval for alcohol</p> <p>14 use, for example, is 59.1 to 65.7, that's the same</p> <p>15 thing as a margin of error, basically.</p> <p>16 A Correct. Basically, yes. That's the 95 percent</p> <p>17 confidence interval. That's that, say, if it falls</p> <p>18 in there, then we are 95 percent sure that we got</p> <p>19 it.</p> <p>20 Q Okay.</p> <p>21 A That we're confident that the number that, you know,</p> <p>22 our standard of error isn't so crazy that we're</p> <p>23 outside of that range. Make sense?</p> <p>24 Q It does. And that information wasn't included in</p> <p>25 your sexting report, because, in your sexting</p>

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<p style="text-align: right;">Page 165</p> <p>1 article, you weren't trying to determine the 2 prevalence of sexting. 3 A Correct, we weren't trying to see -- because our 4 study was not designed for sexting. Our study was 5 designed for, you know, alcohol use, so we had 6 specifically that charge, that we said we were going 7 to look at how representative our data are for 8 substance use, but you could do it for sexting; I 9 mean, you could do it for sexting. 10 I don't remember, but there's 11 probably missing data on those as well, for all the 12 reasons we talked about before. We could do it, but 13 we weren't doing that. We wanted to know if sexting 14 was related. Actually, what we were really 15 interested in was sexting related to risky sex 16 behavior; do people, who do this, do other risky 17 sex? 18 I have to say, the bottom line is, 19 what we found, which was, again, surprising to me, 20 but maybe because I'm a silverback, a gray hair, is 21 that it apparently has become part of the dating 22 process. I mean, it's kind of strange to me, but 23 that's what our data, in that sexting study, sort of 24 suggests, that it's -- we concluded it's not 25 aberrant behavior and that it seems, because you're</p>	<p style="text-align: right;">Page 167</p> <p>1 here? 2 A No. 3 Q Okay. 4 A And those are similar to what other people have 5 used. And we thought they were pretty 6 straightforward and that would be it, so, yes. 7 Q Okay. And as we clarified earlier, this does not 8 include any message that contained only written 9 content. 10 A Yes. 11 Q What do you mean by "sexually suggestive"? 12 A I forgot what his name is, Weiner, Weiner's photo; 13 in other words, there was no genitalia, but he was 14 in his underwear; that's sexually suggestive, right? 15 I mean, it's a slippery slope, what's 16 sexually suggestive. For some people, standing here 17 in a tie is sexually suggestive; being in a uniform, 18 right? I mean, that's not what we mean. We do mean 19 something a little bit more lascivious. That's what 20 we meant, but, you know, it's in the eyes of the 21 beholder, right? Somebody might say a man without a 22 T-shirt, without a shirt on, fully clothed below the 23 waist, is sexually suggestive, and they might have 24 said "yes" on that, it's possible. We don't know. 25 Nude, we would think that most people</p>
<p style="text-align: right;">Page 166</p> <p>1 not more or less likely to have more partners, or do 2 anything more promiscuously, or get more likely to 3 engage in, you know, risky behaviors, you know, 4 without condoms or whatnot, that sexting must be 5 just part of the process and not really related to 6 anything else. 7 Q One thing I'm interested in, we looked at this a 8 little bit earlier, was the definition of sexting. 9 So in your 2012 sexting study, I know we looked at 10 this together earlier, you define sexting as sent 11 a -- 12 MR. BAUMGARDNER: This is from -- 13 MR. SWINTON: This is from Zimmerman 14 Exhibit 3. 15 A Exhibit three? Oh yeah. I got it. 16 BY MR. SWINTON: 17 Q Your sexting study. Second page, second column, 18 under Measures. 19 A Yeah. 20 Q So the definitions for sexting is sending a sext is 21 sending a sexually suggestive nude or nearly nude 22 photo or video of themselves to someone else and 23 receiving a sext is receiving a sexually suggestive 24 nude or nearly nude photo. Did you define sexting 25 any more specifically than the definitions provided</p>	<p style="text-align: right;">Page 168</p> <p>1 would think that was without any clothes on. But 2 sexually suggestive, it goes back to you know what 3 pornography is when you see it, right? What's 4 pornography? I don't know. But I think, what we 5 were in meaning was a coy-looking, or a picture of 6 you in your underwear, things like that. 7 Q So it could be somebody, who was fully clothed, but 8 was poised in a sexual manner. 9 A One could potentially have interpreted this question 10 that way. I would guess that would be a minority, 11 very small minority, because we said "nude or 12 sexually suggestive," so I think it would have to be 13 more than being in a uniform; although, again, for 14 some people, that could be, you know, sexually 15 suggestive. 16 Q It could be a fully-clothed woman, who's showing her 17 cleavage. 18 MR. BAUMGARDNER: Objection. Go 19 ahead, you can answer. 20 A I have to say, you know, I'm not going to get in the 21 business of, you know, what somebody thinks is 22 sexually suggestive. We use the language other 23 people have used to be consistent with that. We 24 kind of looked and said, okay, well, this is a weird 25 thing -- not a weird, "weird" is not the right</p>

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<p>1 word -- but this is a vague term, sexting, what</p> <p>2 exactly is it. So we looked and saw, tried to see</p> <p>3 what other people would do.</p> <p>4 I would, but I don't know, 'cause I</p> <p>5 don't know about sexting until this, right? And the</p> <p>6 whole idea of it, could cleavage be? For some</p> <p>7 people, you know, it's kinda like pornography, some</p> <p>8 people will say cleavage is pornography, right? I</p> <p>9 mean, I know people who would say anything -- some</p> <p>10 people would say it's pornographic to be showing</p> <p>11 your hair. So that's a slippery slope that I'm not</p> <p>12 sure I want to go down.</p> <p>13 BY MR. SWINTON:</p> <p>14 Q Okay. And just to clarify, your study didn't take</p> <p>15 account of the number of sexts -- let me phrase this</p> <p>16 question a little bit differently. When people said</p> <p>17 they sext, your study didn't take account of the</p> <p>18 type of sext that they sent, correct, so, in other</p> <p>19 words --</p> <p>20 A Correct. So we don't know if it was a picture of</p> <p>21 themselves in underwear, or if it was a picture of</p> <p>22 themselves nude, or with somebody else.</p> <p>23 Q And your study also did not take account of the</p> <p>24 frequency of sexting, correct?</p> <p>25 A Correct. So if they did it once, they would say</p>	<p>1 Q Okay.</p> <p>2 A No, we don't know. We didn't ask them that</p> <p>3 question, did you send in order to receive a sext to</p> <p>4 more than one person at a time. That's what you're</p> <p>5 asking me.</p> <p>6 Q Right.</p> <p>7 A Don't know.</p> <p>8 Q And for receipt of a sext, you also didn't measure</p> <p>9 the number of second-hand sexts received, correct?</p> <p>10 A Correct.</p> <p>11 Q So a person --</p> <p>12 A So if somebody sent you one, and you sent it to me,</p> <p>13 we don't know if that happened, or if it just was</p> <p>14 directly sent to me. We don't know that, that's</p> <p>15 correct.</p> <p>16 Q Okay.</p> <p>17 A That's curious that you would be asking me that,</p> <p>18 'cause I think it would hurt your case. But,</p> <p>19 anyway, go on. I talk too much.</p> <p>20 Q So we talked before about the order of authors on an</p> <p>21 article, and you kind of described to me the basic</p> <p>22 practice when there are multiple authors, so here I</p> <p>23 see you're the fourth author listed.</p> <p>24 A Correct.</p> <p>25 Q What was your specific involvement in writing this</p>
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<p>1 "yes" to this.</p> <p>2 Q Or if they received a message, a sext, at one point</p> <p>3 in time.</p> <p>4 A And if it was once, they would say "yes" to this.</p> <p>5 Q To one time in their life.</p> <p>6 A Right. I can tell you, for behavior, the best</p> <p>7 predictor of future behavior is past behavior, so</p> <p>8 whether you received this is sometimes not under</p> <p>9 your control. But having sent it, chances are, you</p> <p>10 sent one, you probably sent another, or you</p> <p>11 certainly increased the probability that you would</p> <p>12 send another, right?</p> <p>13 Q And your study did not measure the number of or the</p> <p>14 proportion of mass sext messages. So if I sent a</p> <p>15 sext message to multiple people, that would be a</p> <p>16 mass sext?</p> <p>17 A Oh, mass, no "t," m-a-s-s.</p> <p>18 Q Correct. Yeah.</p> <p>19 A I thought you were saying "mast." I'm, like, what's</p> <p>20 a "mast"?</p> <p>21 MR. BAUMGARDNER: I thought it was</p> <p>22 "masked."</p> <p>23 BY MR. SWINTON:</p> <p>24 Q That's fine. It's my Washingtonian accent.</p> <p>25 A Spokane accent of yours. We have no idea.</p>	<p>1 article?</p> <p>2 A Extreme. I was involved at the very beginning.</p> <p>3 Alison Grodzinski was, she might have been the one</p> <p>4 who sort of mentioned the idea of sexting in the</p> <p>5 first place.</p> <p>6 Deborah, we tasked Deborah, who we</p> <p>7 had hired as part of this; another advantage, is</p> <p>8 that we hired a person. We hired several people</p> <p>9 because of this funding, which is exactly what it</p> <p>10 was supposed to do. But we hired her, she was the</p> <p>11 project director, and we were working with her to</p> <p>12 work on this paper, and Jose and I worked pretty</p> <p>13 closely with her analytically.</p> <p>14 I'm last author, because this is a</p> <p>15 medical journal. The Journal of Adolescent Health</p> <p>16 is the primary journal; in fact, I think it's called</p> <p>17 the official journal, of The Society for Adolescent</p> <p>18 Medicine, so -- Adolescent Health and Medicine, I</p> <p>19 think, is the official title of what the society is</p> <p>20 called. And it was a medical journal, so I was last</p> <p>21 author, so in keeping with what we talked about</p> <p>22 before.</p> <p>23 Debbie did all the primary writing</p> <p>24 and initial analyses, working closely with Jose, and</p> <p>25 I was the PI of the whole project, principal</p>

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Page 173	<p>1 investigator, of the whole project. I worked with</p> <p>2 Debbie on the analysis as well, very closely. She</p> <p>3 would actually do the analysis, we would look at the</p> <p>4 results, we would talk about the results, we would</p> <p>5 re-do some analyses based on the results, for one</p> <p>6 reason or another.</p> <p>7 I'm sure we talked about whether we</p> <p>8 should use the full data or the weighted date. We</p> <p>9 decided to go with weighted because of this idea of</p> <p>10 prevalence, to get at that. So I was involved with</p> <p>11 basically every word that's on the page, and the</p> <p>12 analyses, and the conceptualization of it. That's</p> <p>13 why I'm senior author on it.</p> <p>14 Q Okay. Okay. I'd like to go back to Zimmerman</p> <p>15 Exhibit 4, which is your study on Innovative</p> <p>16 Recruitment Using Online Networks.</p> <p>17 And as we've touched on before, this</p> <p>18 article was looking at drug use among young adults,</p> <p>19 and finding prevalence rates, and then comparing</p> <p>20 that information with a study that was performed on</p> <p>21 the national level to see how well RDS sampling</p> <p>22 methods matched up with that national study. And I</p> <p>23 think we talked about before the national study, the</p> <p>24 abbreviation is NSDUH, and that's the National</p> <p>25 Survey on Drug Use and Health.</p>
Page 175	<p>1 comparisons made to it in the past saying how well</p> <p>2 their sample matches up to national studies, and</p> <p>3 whatnot. So really academics, people who do</p> <p>4 research in the field. I'm not in the field of, you</p> <p>5 know, practitioners or policymakers, so I don't know</p> <p>6 to what extent they use it, but I would imagine they</p> <p>7 would also use it a lot.</p> <p>8 Q So you looked at different information that gave you</p> <p>9 confidence that this was one of the best national</p> <p>10 studies on drug use among young adults.</p> <p>11 A Yes.</p> <p>12 Q Okay. And the results of your comparison were that</p> <p>13 the different types of use of drugs that you</p> <p>14 measured were very similar to the information and</p> <p>15 findings in the national study, with the exception</p> <p>16 of cigarette use, correct?</p> <p>17 A Yep. I must have looked at a first draft and they</p> <p>18 told us to get rid of the table, because, you know,</p> <p>19 these are the data I was looking at in this other</p> <p>20 paper I was looking at. But, yes, that was the one</p> <p>21 thing, and that's because, we think -- was this</p> <p>22 where you're going to go?</p> <p>23 Q Please, go ahead.</p> <p>24 A Of course, you want me to talk. The more I talk,</p> <p>25 the better it is for you, right?</p>
Page 174	<p>1 A Yeah, thank you. Very good.</p> <p>2 Q So why was it important to have the data from the</p> <p>3 national study?</p> <p>4 A Because that is a study that people look to as sort</p> <p>5 of a gold standard, because it's a national study</p> <p>6 that, you know, uses -- you remember that continuum;</p> <p>7 again, it's not perfect, there's lots of flaws and</p> <p>8 problems with it, but it's in that direction, and</p> <p>9 recognized to be in that direction, and a study</p> <p>10 sanctioned by the federal government as being in</p> <p>11 that direction. And so we thought we'd use that as,</p> <p>12 more or less, a gold standard.</p> <p>13 You know, are there others that we</p> <p>14 could have used? You know, there's Monitoring the</p> <p>15 Future, but there's some problems with that. We</p> <p>16 thought this was the best national study to kind of</p> <p>17 compare it to.</p> <p>18 Q So what were the criteria you were looking at in</p> <p>19 trying to find the gold standard study?</p> <p>20 A One that was widely accepted as a national</p> <p>21 representative sample, with all it's warts and</p> <p>22 pimples, and that was basically it. And this is one</p> <p>23 that people have used in the past.</p> <p>24 Q And accepted by who?</p> <p>25 A The field, substance use researchers. We've seen</p>
Page 176	<p>1 THE WITNESS: Did you get that, too?</p> <p>2 I guess you have to get everything I say, don't you?</p> <p>3 I pity the person that has to read this.</p> <p>4 A Yeah, because our sample is a little bit more</p> <p>5 educated, and we know that people who use cigarettes</p> <p>6 are a little bit less educated. You know, that</p> <p>7 might not have been true 30, 40 years ago, but we've</p> <p>8 gotten to the point where cigarettes are not a very</p> <p>9 popular thing anymore, right? And so more educated</p> <p>10 people know this, they're getting the message, they</p> <p>11 get it. They understand that it's delayed effects.</p> <p>12 They understand all these kind of things. So higher</p> <p>13 SES people tend to not smoke cigarettes, because</p> <p>14 they also have, I don't know, they have the</p> <p>15 knowledge to not do it.</p> <p>16 Maybe they don't think the same way</p> <p>17 about marijuana or alcohol, I don't know why. But I</p> <p>18 think there's such a push across America and across,</p> <p>19 you know, both policies, across feds and states, and</p> <p>20 all that sort of thing, so that didn't surprise us.</p> <p>21 What actually surprised us more was</p> <p>22 that our sample was actually pretty good for</p> <p>23 everything else. And alcohol use, which is actually</p> <p>24 more ubiquitous, was pretty chose, too.</p> <p>25 Q Well, I know we don't have a table in this document,</p>

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<p>1 but the summary of the comparison is on 837.</p> <p>2 A Yeah.</p> <p>3 Q On cigarette use it looked like your study found</p> <p>4 lower rates of cigarette use than national, the</p> <p>5 NSDUH study.</p> <p>6 A Uh-hum.</p> <p>7 MR. BAUMGARDNER: You have to answer</p> <p>8 verbally, Doctor.</p> <p>9 A Yes.</p> <p>10 THE WITNESS: Thank you for keeping</p> <p>11 reminding me.</p> <p>12 BY MR. SWINTON:</p> <p>13 Q Your study found 19.9 percent, correct?</p> <p>14 A I'm just looking for the data so I can say, "yes."</p> <p>15 Yes.</p> <p>16 Q The last sentence.</p> <p>17 A Yeah, yeah, I see it.</p> <p>18 Q And the NSDUH study was 35.8 percent, correct?</p> <p>19 A Correct.</p> <p>20 Q So your study found a lower percentage.</p> <p>21 A Right. A significantly lower percentage, per your</p> <p>22 language; a statistically significantly lower</p> <p>23 percentage.</p> <p>24 Q So I just wanted to clarify, if you could go back to</p> <p>25 your expert report, which we marked Zimmerman</p>	<p>1 MR. BAUMGARDNER: It just is.</p> <p>2 THE WITNESS: Good. Thank you.</p> <p>3 BY MR. SWINTON:</p> <p>4 Q I think you're set. Going back to the online</p> <p>5 virtual network study of drug use, were you looking</p> <p>6 for the results of your study to come within a</p> <p>7 certain range of the NSDUH findings when you take</p> <p>8 into comparisons?</p> <p>9 A No, we just wanted it to fall within the margin of</p> <p>10 error.</p> <p>11 Q And the margin of error for the NSDUH study, or the</p> <p>12 margin of error?</p> <p>13 A We wanted to see if our data were similar to those</p> <p>14 data, so we did just basically a t-test comparing</p> <p>15 the two. So it's a little bit more complicated than</p> <p>16 saying what you just said, 'cause the statistical</p> <p>17 test takes into account the variation of the two</p> <p>18 samples, and compares the mean and standard of</p> <p>19 deviation across the two samples. So it's not just</p> <p>20 is it within that range, but is our standard error</p> <p>21 within the standard error of them taking into</p> <p>22 account the mean and variation around that mean.</p> <p>23 I'm not trying to obfuscate here, but</p> <p>24 do you know what I mean? So it wasn't like, does</p> <p>25 our number fall in that number, because it has to do</p>
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<p>1 Exhibit 2.</p> <p>2 A ZX 2.</p> <p>3 Q ZX 2.</p> <p>4 A Yeah.</p> <p>5 Q Second page.</p> <p>6 A Did I say something that was not right? I said,</p> <p>7 "Tobacco."</p> <p>8 Q You said "Our study participants reported more</p> <p>9 cigarette use."</p> <p>10 A That's just an error. Where do I say --</p> <p>11 Q It's kind of in the middle of the paragraph, in a</p> <p>12 parenthetical.</p> <p>13 A That's just an error. That should be "less</p> <p>14 cigarette use."</p> <p>15 Q Okay.</p> <p>16 A I, obviously, did this late at night or something,</p> <p>17 or, I don't know why, but I made a mistake.</p> <p>18 Q Okay.</p> <p>19 A I actually thought I checked, 'cause I was doing</p> <p>20 that, and I just must have read it wrong.</p> <p>21 Q Yeah, I wanted to make sure I wasn't missing</p> <p>22 anything.</p> <p>23 A No. No, you're not. Thank you. Can we put that on</p> <p>24 the record to be corrected?</p> <p>25 Q I think it's on the record, yeah.</p>	<p>1 with also the distribution of this number -- my left</p> <p>2 hand to my right hand -- it has to do with the</p> <p>3 distribution of what our data were and the</p> <p>4 distribution of what their data were; do you see</p> <p>5 what I mean?</p> <p>6 Q So you were comparing margins of error?</p> <p>7 A In a sense. I mean, the exact algorithm, a</p> <p>8 mathematician would have to tell you how that works.</p> <p>9 But what you're really comparing is two</p> <p>10 distributions, right? And we never have a</p> <p>11 population distribution, really, for all the things</p> <p>12 we talked about before. So we take the sample that</p> <p>13 we think is a little bit closer to that gold</p> <p>14 standard and we say, How close is ours to that? And</p> <p>15 so you overlap the two distributions.</p> <p>16 And if they're very far apart, they</p> <p>17 would be a statistically significant difference. If</p> <p>18 they're closer, there would not be, and that's what</p> <p>19 we're finding in the main. And because the</p> <p>20 variation of this, of one sample, maybe overlap, but</p> <p>21 outside of the variation of the other sample, and</p> <p>22 that sample may have some variation outside of the</p> <p>23 range. The question is, do they overlap</p> <p>24 sufficiently to not be statistically different?</p> <p>25 Q Okay.</p>

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<p>1 A And we did those analyses and they are not 2 different.</p> <p>3 Q Okay.</p> <p>4 A Except for cigarette use, in the direction that we 5 have now stand corrected.</p> <p>6 Q So it wasn't as simple as saying, Okay, our study 7 found of 62.4 percent of alcohol use, and the NSDUH 8 study found, you know, 64 percent, and so, 9 therefore, our findings are similar.</p> <p>10 A Yes, you'd say that, but it's because of the 11 statistical test that you've done.</p> <p>12 Q Okay. Because you ran the algorithm?</p> <p>13 A Right. Exactly.</p> <p>14 Q So the algorithm is what helped you determine that 15 the results of the RSD (sic.) sample population --</p> <p>16 A RDS.</p> <p>17 Q I'm sorry, RDS.</p> <p>18 A The RDS with the NSDUH. I forgot we're talking to 19 somebody from Washington, so it's all about 20 acronyms, but, yes, yes, I think you have that 21 right.</p> <p>22 Q So let me just see if I can state it correctly, so I 23 can remember this. So you ran an algorithm in 24 making your comparison, correct?</p> <p>25 A Correct.</p>	<p>1 BY MR. SWINTON:</p> <p>2 Q How did you become aware of the two studies that you 3 mention that you compared your data to?</p> <p>4 A Whenever we do research, you know, whenever we're 5 going to write a journal article based on some data 6 we've collected, we search the internet, or we 7 network with people who may have done this before.</p> <p>8 Usually we search the internet;</p> <p>9 there's databases to search. There's all sorts of 10 databases. MEDLINE is probably where we would 11 start, you know. And when you don't find much in 12 MEDLINE, you start going to other databases, and 13 PsycINFO, that kind of thing. There's a lot of 14 overlap between these.</p> <p>15 Some might get some more things on 16 the edges, but there's a lot of overlap in a lot of 17 these databases, ever more so. And, frankly, now 18 you just go on Google Scholar and search things and 19 things pop up, so that's what we do.</p> <p>20 And then we see a title, and we say, 21 Oh, that might be relevant; then we read the 22 abstract, and we say, Oh, that is relevant; then 23 we'll get the article and then we'll read the 24 article. I have not read every single article 25 that's, you know, listed, that we list; many I have,</p>
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<p>1 Q And running that algorithm gave you confidence that 2 the sample population using RDS was similar to the 3 population from the national study.</p> <p>4 A Correct.</p> <p>5 Q Okay. And I don't think I used only but one acronym 6 in that sentence, so . . .</p> <p>7 A That's very good.</p> <p>8 Q If we could turn back to your expert report.</p> <p>9 A Are you going find another mistake in it?</p> <p>10 Q Which is Exhibit 2.</p> <p>11 A I would have made it longer, but they only wanted 12 the two pages, keep it short. More space for 13 errors. Go on.</p> <p>14 Q So I was interested, you mentioned that, you know, 15 you say, "We believe our results are nationally 16 representative of young adults who use the internet 17 for several reasons," and you list three of them in 18 this paragraph.</p> <p>19 A Um-hum.</p> <p>20 Q And so the third one is you point to two other 21 studies on sexting, correct?</p> <p>22 A Um-hum.</p> <p>23 MR. BAUMGARDNER: You have to answer 24 verbally.</p> <p>25 A Yes.</p>	<p>1 but not all of them.</p> <p>2 Q I'm sorry, every article you list where?</p> <p>3 A That we cite, that we cite in the sexting paper.</p> <p>4 Q Okay.</p> <p>5 A I don't always read every one. If I'm first author, 6 I'm more likely to. Senior author, I'm more likely 7 to work with other people.</p> <p>8 Q Okay. So I'm thinking specifically of the two 9 articles you reference in your expert report.</p> <p>10 There's one in Benotsch, I believe, is the name from 11 2012, and there's one from 2008, The National 12 Campaign to Prevent Teen and Unplanned Pregnancy. 13 Did you find these articles using the same searching 14 methods you just described?</p> <p>15 A I didn't search it, so I don't know for sure, but I 16 would be shocked if it was any other way.</p> <p>17 Q Okay. Who did the search?</p> <p>18 A Probably either Alison or Deborah of the two 19 authors.</p> <p>20 Q Okay.</p> <p>21 A One of those two probably did the search.</p> <p>22 Q Alison and Deborah were your co-authors on the 23 sexting --</p> <p>24 A Co-authors. Deborah was the first author on the 25 sexting paper, Deborah Gordon-Messer, or Alison</p>

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<p>1 Grodzinski. I'm guessing they probably pulled up</p> <p>2 some of this literature.</p> <p>3 Q Okay.</p> <p>4 A I mean, they probably pulled up many things, and we</p> <p>5 talked about what they were, and we tried to place</p> <p>6 our data in the field, like you always do. And I</p> <p>7 recall that there was an incredibly, a derth of this</p> <p>8 kind of studies, this kind of data.</p> <p>9 Q And this of data --</p> <p>10 A Which got us very excited, 'cause it meant we were</p> <p>11 one of the first ones to be doing anything.</p> <p>12 Q And "by this kind of data," you mean --</p> <p>13 A On sexting.</p> <p>14 Q And prevalence rates of sexting.</p> <p>15 A Right, and sort of bigger studies on sexting, yeah.</p> <p>16 Q Okay. So when was that search run looking for</p> <p>17 articles on sexting?</p> <p>18 A Oh jeez, when did this come out? '12. Probably a</p> <p>19 few months before this actually came out.</p> <p>20 Q Okay.</p> <p>21 A You know, when you search things now, they aren't</p> <p>22 gonna, say, come out in print. Things are published</p> <p>23 before print now, and they're available on search</p> <p>24 engines, so I'm sure we did it right before we</p> <p>25 submitted this for publication.</p>	<p>1 it's, like, this is what happens when you get to be</p> <p>2 old. I do these things, and I'm only remembering</p> <p>3 things I only absolutely have to remember, and</p> <p>4 sometimes I don't even remember those. I mean, it's</p> <p>5 scary. And I don't think I have Alzheimer's.</p> <p>6 But, you know, it's like I did this</p> <p>7 three months ago, and chances are, now that I've</p> <p>8 just looked at the citations here, that I might have</p> <p>9 asked Alison, I said, Alison, can you update me with</p> <p>10 anything else that's been going on about sexting,</p> <p>11 and then she may have given me these, and then</p> <p>12 that's why I cited them here, right?</p> <p>13 I didn't ask her to write this. She</p> <p>14 probably gave them to me, and then I looked at it,</p> <p>15 and I said, Here's what it is, or I may have</p> <p>16 searched something on the web and there was a report</p> <p>17 about it or something, but, you know, that's</p> <p>18 probably what happened.</p> <p>19 So I did do some research; you know,</p> <p>20 once I was given this assignment, I was given the</p> <p>21 research, because I wanted to see if there was</p> <p>22 anything in between. But I'm pretty confident that,</p> <p>23 when we submitted this article, and from when it</p> <p>24 came out, we didn't do more research on that. Do</p> <p>25 you follow what I'm saying? So I may have done some</p>
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<p>1 Once we submitted it, it sometimes</p> <p>2 depends whether or not you go back to the literature</p> <p>3 and update it. Journal of Adolescent Health is</p> <p>4 actually pretty good at turn-around time. So I</p> <p>5 don't think we researched it again to see if there's</p> <p>6 anything new in between when we first submitted it</p> <p>7 to when we revised it and resubmitted it, I don't</p> <p>8 think we searched again.</p> <p>9 Q So the search for other articles on sexting</p> <p>10 prevalence would have occurred some time in early</p> <p>11 2012.</p> <p>12 A Yes.</p> <p>13 Q Okay. And did you search again for articles on</p> <p>14 sexting prevalence when writing your expert report?</p> <p>15 A No, I didn't.</p> <p>16 Q Okay.</p> <p>17 A Are there more recent ones, do you know?</p> <p>18 Q You know, I think there are other articles on</p> <p>19 sexting, but it's not my --</p> <p>20 A It's possible, now that I'm looking at this. I may</p> <p>21 need to change my answer.</p> <p>22 (Break was taken.)</p> <p>23 A I might have asked Alison, when I asked her to give</p> <p>24 me the 30 million, 'cause I'm seeing that we didn't</p> <p>25 cite Benotsch, so I take this back. I probably, and</p>	<p>1 more for this task, being the report that I was</p> <p>2 asked to write by the law firm.</p> <p>3 Q You didn't do any follow-up research for purposes of</p> <p>4 your article, in other words?</p> <p>5 A Correct.</p> <p>6 Q But you did do some searching for purposes of doing</p> <p>7 your expert report.</p> <p>8 A It looks like I did now; you know, earlier I said,</p> <p>9 "no," so don't prosecute me for this, please. It</p> <p>10 looks like I probably did, since that was not cited</p> <p>11 here, and we would have, because it's an obvious one</p> <p>12 that we would have. So, yes, I did probably get</p> <p>13 some, I just don't remember.</p> <p>14 It's been a rough three months, four</p> <p>15 months, actually. Whole year has been very</p> <p>16 difficult, lots of things going on at work. And,</p> <p>17 you know, this is just one of those things. And I</p> <p>18 may have asked Alison to do some of this stuff, then</p> <p>19 got the materials, wrote this thing up, and sent it</p> <p>20 to them.</p> <p>21 Q Do you recall looking at any other studies on</p> <p>22 sexting for purposes of your expert report?</p> <p>23 A No. I would have included it, I think. I would</p> <p>24 have included it. I'm a straightforward guy. I</p> <p>25 wouldn't have sort of hidden some stuff. I don't</p>

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<p style="text-align: right;">Page 189</p> <p>1 really have a dog in this fight. You know, my only 2 dog in the fight is that I stand by my research, 3 that's my dog in the fight, so. . .</p> <p>4 Q Okay. Did you try to find the gold standard of 5 studies determining the prevalence rate of sexting 6 for purposes of making your comparison in your 7 expert report?</p> <p>8 A I think I tried to see if there were other studies 9 that we could compare, not necessarily -- well, 10 compare to or see how ours -- I want to be careful 11 about how I say this. What we did in the other 12 ones, we literally wanted to compare it, because, 13 you know, we're saying, okay, if this is the gold 14 standard, and I think a lot of people, while not a 15 perfect standard, but on that continuum closer to 16 better than worse, that, you know, we were doing 17 that comparison.</p> <p>18 In this case, what I was doing is not 19 necessarily comparison to a gold standard, but 20 trying to see what other people have also estimated 21 to see how much more confident I might be that our 22 estimates are within the ballpark.</p> <p>23 And so that's a little bit different 24 kind of comparison; not to a gold standard, but 25 going back to that other stuff I was talking about</p>	<p style="text-align: right;">Page 191</p> <p>1 So I think it's still out there, but, 2 you know, who knows. I don't know if they'll do 3 that. I mean, maybe, given this case, maybe, given 4 some other things, it'll become a national issue 5 that we'll want to know the answer to. Maybe some 6 of these national studies that are being done, 7 they'll ask them.</p> <p>8 You know, the CDC does these national 9 studies also, YRBS, Youth Risk Behavior Survey, and 10 the BRFS, Behavior Risk Survey, which is adults, and 11 those have lots of problems with them. But those, 12 again, are used for all sorts of policy decisions, 13 and pointed to all the time, not peer-reviewed. 14 Just another example, like the Uniform Crime Report. 15 And I bet you YRBS has sexting in it now. I'd be 16 surprised if it doesn't. Might be worth doing some 17 work there.</p> <p>18 I mean, the bottom line is it's not 19 zero, you know. The question is, how big is it? 20 But, I mean, I would say, you know, if I'm not 21 accurate, if we're not accurate 30 percent, I doubt 22 that it's lower than 10 percent, and it could be 23 higher. And it could get to be more, who knows; you 24 know, we'll never know. But, anyway, go on, you 25 have questions. You didn't ask me anything, I keep</p>
<p style="text-align: right;">Page 190</p> <p>1 regarding, you know, having multiple studies 2 pointing in the same direction gives you confidence 3 that you have something that you're close to the 4 answer, or have some sense of what it is, and that's 5 what this was for. So it was that kind of 6 comparison, not a gold standard comparison.</p> <p>7 I don't think there's a gold standard 8 at this point yet of sexting. I think we're going 9 to get there, as this becomes more an issue out 10 there. Although, it's been in the news more lately, 11 frankly, so maybe it'll wane and be nothing, we 12 don't know. Although, I just read a sexting study, 13 for the journal I edit, from South Korea.</p> <p>14 It's irrelevant to this study, 15 otherwise I would have said, oh, I got to read this 16 more. But somebody just sent it in, and I just sent 17 it out for review, and, at that point, I don't 18 really read them super carefully. I read them to 19 make sure that they're in the ballpark, I think, as 20 I told you before, and that there's nothing really 21 egregious about it, and it certainly passed that 22 must technology. But when I was reading it, I was 23 thinking should I really read this super carefully 24 before the deposition, because I just did it over 25 the weekend.</p>	<p style="text-align: right;">Page 192</p> <p>1 talking. That's really bad.</p> <p>2 Q Going back to the comparison you're making to the 3 existing literature on sexting, you said you wanted 4 to situate your findings from your sexting study 5 within the existing literature to see if it was 6 similar.</p> <p>7 MR. BAUMGARDNER: Objection. Go 8 ahead.</p> <p>9 BY MR. SWINTON:</p> <p>10 Q Is it fair to say that you wanted to situate the 11 findings from your sexting study within the existing 12 literature?</p> <p>13 A Ask the question again. I'm sorry.</p> <p>14 Q Is it fair to say that, when you were making your 15 comparison between the findings from your sexting 16 study and the --</p> <p>17 A These other guys.</p> <p>18 Q -- the two studies you mention in your expert 19 report, you wanted to compare the findings from your 20 sexting study to other findings of studies that were 21 already in existence?</p> <p>22 A Correct.</p> <p>23 Q Were you looking to come within a certain range of, 24 a percentage range, of other findings?</p> <p>25 A No, but, yeah. I mean, no, but, yes. I mean, I</p>

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<p>1 didn't have a predefined range, but if they said 2 theirs was, like, three percent, and mine was 30, 3 that would have raised some eyebrows to me. When 4 they said theirs was 20 or 25, and mine is 30, that 5 doesn't.</p> <p>6 Where would my eyebrows have not been 7 raised? I don't know. I didn't do a statistical 8 test, it was just a binocular test; two eyes looking 9 at the data, looking at where we were. I was 10 actually a little surprised that we were as close as 11 we were.</p> <p>12 The samples are not exactly 13 comparable, there's all sorts of problems with their 14 comparison. But, again, what I do, when I try to 15 think logically about what I find, because, again, I 16 advocate that everybody's studies, everybody's, 17 everybody's -- underline that three times, getting 18 more pages -- is flawed. There's no study that's 19 done perfectly.</p> <p>20 So then the question is, well, so 21 what do we know? You know, these are data, these 22 are facts that exist, so how do we know, how do we 23 have confidence in that, and to what extent is it 24 somewhat can go in other places.</p> <p>25 So what we do is what I just did</p>	<p>1 for this kind of work at this moment. In ten years, 2 we won't be having this conversation, this won't be 3 any part of it. This is going to become -- I bet 4 this is going to become a very standard practice, 5 and we're going to have lots more studies about this 6 that we'll be able to estimate. Unfortunately, we 7 are where we are.</p> <p>8 Q When you make the comparison between the results of 9 your study and other studies, is it fair to say that 10 it gives you more confidence the more number of 11 other studies there are that have conclusions 12 similar to the findings in your study?</p> <p>13 A These are long questions. Maybe my mind is 14 drifting. Say that again. I don't think I could 15 disagree with what you just said, but it makes me 16 think, like, why would you be asking, it seems like 17 an obvious answer, so I just need you to ask it 18 again.</p> <p>19 Q Sure. I'm actually thinking of something I think I 20 recall you saying earlier this morning, so I want to 21 make sure I'm remembering this point correctly. I 22 believe you said that, when you make a comparison 23 between the findings from your own study and other 24 studies, it makes you more confident in your own 25 findings the greater number of similarities there</p>
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<p>1 here; I mean, I went right back to my wheelhouse. I 2 went right back to what I know, what I know to 3 convince myself that my data has some veracity, some 4 validity. And so one of the things we do is we do 5 that, and it's in the ballpark. And I don't know 6 what would be not be out of the ballpark. I would 7 say, you know, like, three percent, 10 percent. I 8 often do that in my research class, too, is I talk 9 about extremes, that's really easy. Where it gets 10 really hard is, where's that gray area? You know, 11 it's really easy to say, three percent and 12 30 percent, those are different, you know, you worry 13 about that, but 30 percent and 23 percent? I'm not 14 so sure that's so different; you know what I mean?</p> <p>15 And, again, if you did the study 16 where you looked at all the different samples, you 17 had enough samples to do it, to sample it, you could 18 actually have a 95 percent confidence interval, but 19 that's what it's all about. It's all about the 20 probability that this is close enough, right? 21 Because our science is not exact. I mean, we depend 22 on statistics, and so we try to get exacting by how 23 we measure things and how we get our sample; you 24 know, we try to get really good sample frames.</p> <p>25 This RDS is a creative sample frame</p>	<p>1 are.</p> <p>2 A Correct.</p> <p>3 Q Meaning, the greater number of studies there are 4 that have similar findings to your findings.</p> <p>5 A Correct.</p> <p>6 Q So the more studies there are that have similar 7 findings to yours, the more confident you feel in 8 your own findings.</p> <p>9 A Correct.</p> <p>10 Q So, in this case, you compared your findings to two 11 other studies.</p> <p>12 A Correct.</p> <p>13 Q And was that enough to give you confidence in your 14 own findings for sexting?</p> <p>15 A Well, it would have been, would I be more 16 comfortable -- another way maybe to ask it, would I 17 be more comfortable if there were 30 studies that I 18 could compare to, or if there was some kind of gold 19 standard everybody agreed that this was sort of, you 20 know, or at least used in some way, like the SAMHSA 21 study? Yeah. You have what you have, and you have 22 to start somewhere. Do I wish I had more studies? 23 Yes.</p> <p>24 These two studies similar to mine, I 25 think that's a good start. I don't have any reason</p>

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<p>1 to believe that they did something weird and kinda</p> <p>2 get their sample to be that number; I know I didn't.</p> <p>3 And so I think that this is probably where the</p> <p>4 number probably is. If we have ten more studies,</p> <p>5 I'll answer that question more confidently.</p> <p>6 Q You touched briefly on some of the sampling methods</p> <p>7 that the other studies used, so I just wanted to ask</p> <p>8 you a few questions about those.</p> <p>9 (Zimmerman Deposition Exhibit No. 5</p> <p>10 was marked for identification.)</p> <p>11 Q Dr. Zimmerman, I just handed you a document marked</p> <p>12 Zimmerman Exhibit 5, and it's an article titled</p> <p>13 "Sexting, Substance Use, and Sexual Risk Behavior in</p> <p>14 Young Adults," by Eric Benotsch, and a few other</p> <p>15 authors.</p> <p>16 A Yes.</p> <p>17 Q Do you recall how the sample was selected in the</p> <p>18 survey?</p> <p>19 A No, that's actually what I was looking at.</p> <p>20 Q I believe it's described on the second page under</p> <p>21 Methods.</p> <p>22 A Yeah.</p> <p>23 MR. BAUMGARDNER: Take a minute to</p> <p>24 review it, Doctor.</p> <p>25 A Yeah. Okay, so these were students in undergraduate</p>	<p>1 Q And it's correct that this study, or the sample was</p> <p>2 selected by choosing or selecting undergraduate</p> <p>3 students enrolled in psychology classes at a</p> <p>4 university in the mid-Atlantic region of the United</p> <p>5 States, correct?</p> <p>6 A Um-hum.</p> <p>7 MR. BAUMGARDNER: You have to answer</p> <p>8 verbally, Doctor.</p> <p>9 A Yes. Yes.</p> <p>10 MR. BAUMGARDNER: Is it okay if I</p> <p>11 tell him to do that?</p> <p>12 MR. SWINTON: That's fine.</p> <p>13 A It was probably VCU, but go on.</p> <p>14 BY MR. SWINTON:</p> <p>15 Q That's my suspicion as well. This is a sample of</p> <p>16 convenience, correct?</p> <p>17 A Well, they're interested in young adults. And</p> <p>18 what's interesting is that they had a sample of</p> <p>19 18-to-25-year-olds, so it's unusual. I think, if</p> <p>20 you went to a psychology class at the University of</p> <p>21 Michigan, you would get a range of</p> <p>22 18-to-20-year-olds, so it's interesting that they</p> <p>23 have a little bit older adults in this sample.</p> <p>24 Now, having said that, a sampling of</p> <p>25 convenience, they're studying something that is</p>
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<p>1 class. Now, let me anticipate your question --</p> <p>2 MR. BAUMGARDNER: Why don't you let</p> <p>3 him ask his question. Have you had a chance to read</p> <p>4 through it?</p> <p>5 THE WITNESS: Um-hum. I mean, I can</p> <p>6 see that it was undergraduate psych class.</p> <p>7 MR. SWINTON: Ms. Baumgardner, you're</p> <p>8 limited to objections only, right?</p> <p>9 MR. BAUMGARDNER: Yeah, but I just</p> <p>10 wanted him to be responsive to your question.</p> <p>11 MR. SWINTON: Okay.</p> <p>12 MR. BAUMGARDNER: So we can move</p> <p>13 things along.</p> <p>14 MR. SWINTON: Okay, but it's okay if</p> <p>15 he speaks, as long as it's not anything privileged</p> <p>16 or protected, correct?</p> <p>17 MR. BAUMGARDNER: Understood.</p> <p>18 MR. SWINTON: Okay.</p> <p>19 A Go on. Don't fight now. Come on, be nice. I get</p> <p>20 it. I get it.</p> <p>21 BY MR. SWINTON:</p> <p>22 Q My question was if you recalled the method of</p> <p>23 sampling for this study, and have you refreshed your</p> <p>24 memory on that?</p> <p>25 A Yes.</p>	<p>1 particularly relevant for an undergraduate</p> <p>2 population, so it doesn't seem completely out of the</p> <p>3 realm to say let's collect data from the</p> <p>4 university's sample, but it does have lots of</p> <p>5 limitations, 'cause they're only people who are</p> <p>6 going to school, they're only people who are going</p> <p>7 to that school, they're only people taking that</p> <p>8 class, so, you know, there are clearly limitations.</p> <p>9 Some universities require psychology</p> <p>10 as an introductory, as a required course. Of all</p> <p>11 the LS&A type, liberal arts and science types,</p> <p>12 that's the biggest college at the University of</p> <p>13 Michigan, so you're actually getting a pretty good</p> <p>14 representation of LS&A type students. You're not</p> <p>15 getting any engineers, you're not getting graduate</p> <p>16 students, you're not getting students in the nursing</p> <p>17 school, so it's limited. But it is an appropriate</p> <p>18 question for the population, because you're</p> <p>19 interested in sex behavior, they're young adults,</p> <p>20 they're going to college. So is it as bad -- on the</p> <p>21 continuum, I would rate it as a little bit below</p> <p>22 average, but I wouldn't rate it all the way down to</p> <p>23 the bottom. Makes sense?</p> <p>24 Q Yeah, it does.</p> <p>25 A You're so earnest when you're either paying</p>

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<p>1 attention. Either you're trained very well or</p> <p>2 you're really listening. I'm not sure which it is.</p> <p>3 THE WITNESS: Did you put that in</p> <p>4 there? I guess you have to.</p> <p>5 A Go on.</p> <p>6 BY MR. SWINTON:</p> <p>7 Q Are there any other limitations in the sampling</p> <p>8 method?</p> <p>9 A You know, you could argue that, well, they got</p> <p>10 course credit, so, you know, they're not really</p> <p>11 doing it voluntarily. And it's a little bit</p> <p>12 different than when you just pay somebody, that's</p> <p>13 voluntarily, but you could argue, well, you're</p> <p>14 enticing people.</p> <p>15 This is something even more relevant,</p> <p>16 because, if they don't pass the class, they might</p> <p>17 not get their degree, so they have to do it. They</p> <p>18 don't have to do this one, and there are ways for</p> <p>19 them to get out, so that's another limitation. It</p> <p>20 says it was one of several ways. I think they're</p> <p>21 trying to make the case that this was a relatively</p> <p>22 food sample for what it is.</p> <p>23 Q So that the caveat is for what it is.</p> <p>24 A Sure.</p> <p>25 Q And what is --</p>	<p>1 A Yeah, yeah, the methods. The methods and the</p> <p>2 specific prevalence results. The reason why I</p> <p>3 mention that is, like, they probably noted that, in</p> <p>4 their limitation section, in fact, there it is, "The</p> <p>5 data for this study were collected from a</p> <p>6 convenience sample of college students in the</p> <p>7 mid-Atlantic region, unquote, quote-unquote, right?</p> <p>8 "Generalization to other populations and geographic</p> <p>9 areas may not be justified." They're doing a good</p> <p>10 job to identify the flaw in their study, right?</p> <p>11 Q They're essentially saying somebody looking at our</p> <p>12 study needs to recognize that it was a sample of</p> <p>13 college students in this particular class in this</p> <p>14 part of the country.</p> <p>15 A Right.</p> <p>16 Q Okay.</p> <p>17 A At this university, yeah, which is not unlike what I</p> <p>18 did, right? Our sample is somewhat limited, right,</p> <p>19 we talked about that before.</p> <p>20 Q So do you remember looking at that when you were</p> <p>21 comparing the results of your sexting study to this?</p> <p>22 A Yeah, because there's so little data that I -- yes,</p> <p>23 I'm sure I did. I don't remember that, at the</p> <p>24 moment, but I'm sure I noticed that.</p> <p>25 I was basically looking for anything</p>
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<p>1 A Well, undergraduate psychology students, all the</p> <p>2 things I just said. The sample frame are</p> <p>3 undergraduates at this university in psychology</p> <p>4 classes. If psychology is not required, you can</p> <p>5 major in anthropology and never take psychology,</p> <p>6 it's more limiting like that.</p> <p>7 If you're at University of Illinois,</p> <p>8 it doesn't matter what you major in at LS&A, so that</p> <p>9 would make it a broader sample, so I don't know that</p> <p>10 total context; however, sexting is particularly</p> <p>11 relevant to this population, one would think: They</p> <p>12 are probably on cell phones, they probably have</p> <p>13 smartphones, they have access to the internet, and</p> <p>14 they are sexually active. We know all those things</p> <p>15 are probably true, so, in that sense, it's an</p> <p>16 appropriate sample, albeit somewhat limited.</p> <p>17 You know, when I read these, when I</p> <p>18 looked at these, now I'm recalling, I looked at a</p> <p>19 sample probably, and stuff, but I didn't look at the</p> <p>20 whole paper. I didn't look at their theories or</p> <p>21 what analyses. I was looking at the prevalent</p> <p>22 stuff, 'cause that was my charge, just for the</p> <p>23 record.</p> <p>24 Q Do you remember what specific parts of the study you</p> <p>25 looked at?</p>	<p>1 that would at all get to an example that I can say,</p> <p>2 you know, rather than being out here in the ocean</p> <p>3 alone, there's another life raft, basically; it's</p> <p>4 another data point. Yes, it's limited, but what</p> <p>5 does that look like? Yes, this one is limited; what</p> <p>6 does that look like? This one is limited; what does</p> <p>7 that look like? And, as I was saying, we all have</p> <p>8 limitations of some kind.</p> <p>9 I think my sample is probably a</p> <p>10 little bit better than theirs, because we have</p> <p>11 people who are not just in college. We have an</p> <p>12 oversample of college students, but people who use</p> <p>13 the internet are probably more likely to be in</p> <p>14 college, and we didn't sample them through college.</p> <p>15 They got to us in a different way, right?</p> <p>16 So, in some ways, it might be pretty</p> <p>17 comparable, in other ways not comparable. So, you</p> <p>18 know, you do the best you can with the information</p> <p>19 and the data that are available and that are out</p> <p>20 there.</p> <p>21 Q I wanted to look on page 309 of the article we've</p> <p>22 been talking about. There's Table 1, which is in</p> <p>23 the top left-hand corner.</p> <p>24 A 309?</p> <p>25 Q Yeah, page 309.</p>

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<p>1 A Top left-hand corner, okay.</p> <p>2 Q It's Table 1.</p> <p>3 A Okay.</p> <p>4 Q Called "Sample Demographic Characteristics."</p> <p>5 A Okay.</p> <p>6 Q So this lists the demographic characteristics of</p> <p>7 this sample selected. So a few lines I wanted to</p> <p>8 review. I think, for female, it says 66 percent of</p> <p>9 the sample was female, correct?</p> <p>10 A More female than mine, yeah.</p> <p>11 Q And 65 percent of the sample were freshmen in</p> <p>12 college, correct?</p> <p>13 A Um-hum.</p> <p>14 Q And, again, you have to answer with words.</p> <p>15 A Yes.</p> <p>16 Q And 20 percent were members of a fraternity or</p> <p>17 sorority, correct?</p> <p>18 A Yes.</p> <p>19 Q Did you look at this demographic breakdown when you</p> <p>20 were making your comparison?</p> <p>21 A In terms of year in school, I don't think we did do</p> <p>22 year at school, did we? I'd have to look back. Can</p> <p>23 I look back?</p> <p>24 Q Sure.</p> <p>25 A Am I allowed to do that, now that I have it in front</p>	<p>1 So I wouldn't say that this is</p> <p>2 representative or -- I don't know how representative</p> <p>3 this is. I don't know one way or the other, given</p> <p>4 your statement of all students taking psychology at</p> <p>5 this university. I suspect it's close.</p> <p>6 Q But we can say that these are characteristics of the</p> <p>7 sample from this study, from the sexting study, at</p> <p>8 their university, correct?</p> <p>9 A Yes. Yes. Where you going? How comparable is that</p> <p>10 to our sample?</p> <p>11 Q Please continue.</p> <p>12 A In some ways, it is; in some ways, it isn't. At</p> <p>13 some level you have to think about, in terms of</p> <p>14 comparability of the sample, of this sample to other</p> <p>15 samples, my sample to whatever else exists out</p> <p>16 there, you know, how exacting is that?</p> <p>17 You also have to step back and say,</p> <p>18 is there a reasonable, or plausible, or</p> <p>19 theoretically, theoretical explanation for why, for</p> <p>20 example, men or women would be different on this</p> <p>21 behavior, in particular sexting. Why would African</p> <p>22 Americans, or Latinos, or white people, or Asians,</p> <p>23 or any ethnic group, be different? Why would</p> <p>24 people, with different kinds of educations, be</p> <p>25 different for this behavior? That's, to me, the</p>
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<p>1 of me? I think it was just level of education, and</p> <p>2 it was, like, some college, but we didn't get what</p> <p>3 year they're in, because, again, we did not sample</p> <p>4 by college, right, so it was less relevant for us</p> <p>5 about what grade you were in. We just wanted to</p> <p>6 know if you had some college. We don't have Greek</p> <p>7 membership, we don't have year in school; at least</p> <p>8 not in our report, not in our data that we reported</p> <p>9 here. I don't remember if we actually have it in</p> <p>10 the data set, but we didn't report it, which makes</p> <p>11 me think we don't.</p> <p>12 Q And the characteristics listed in Table 1 that we</p> <p>13 just reviewed are characteristics of the sample size</p> <p>14 from this study, correct?</p> <p>15 A From the Benotsch study.</p> <p>16 Q So these are characteristics of the sample from</p> <p>17 undergraduate psychology class at this particular</p> <p>18 university, correct?</p> <p>19 A Yeah. They have to do, like, maybe three or four of</p> <p>20 these things, this is why I hesitated, three or four</p> <p>21 experiments they have to participate in, or studies.</p> <p>22 They get to choose them, so there could be another</p> <p>23 study that have more men than women and this just</p> <p>24 happens to be one that they signed up for; you know,</p> <p>25 I don't know how it works at that university.</p>	<p>1 more important question than whether or not these</p> <p>2 two samples are exactly the right match, do you know</p> <p>3 what I mean?</p> <p>4 And so, because I made a different</p> <p>5 judgment than you're maybe making, I wasn't as</p> <p>6 worried about the comparability of the samples, as</p> <p>7 long as they were the right age range, because I</p> <p>8 think this behavior is not unique to a particular</p> <p>9 group of people, other than perhaps ones who use the</p> <p>10 internet versus who don't.</p> <p>11 And when I say, "internet," I say</p> <p>12 that because we talked about before in terms of, if</p> <p>13 you're using the internet, the chances are you're</p> <p>14 also more likely to have a smartphone that takes</p> <p>15 pictures easily, and you text, and you're in a</p> <p>16 generation that texting is big. I mean, I work a</p> <p>17 lot in lower-income communities and cell phones are</p> <p>18 even ubiquitous than access to the internet.</p> <p>19 So I don't have any reason to</p> <p>20 believe, based on the characteristics of the sample,</p> <p>21 other than the age, that that should be different,</p> <p>22 'cause I think that's where you're going. But,</p> <p>23 anyway, it doesn't matter. Go on. I just wanted to</p> <p>24 make sure I got that out.</p> <p>25 Q This is a helpful explanation. So the</p>

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<p>1 characteristics you were focused on, for purposes of</p> <p>2 making your comparison, were the age range and</p> <p>3 computer use; is that correct?</p> <p>4 A More age range than even computer use, but, yes. I</p> <p>5 would say, yes, to your question, but probably more</p> <p>6 about the age range. That's what's more important</p> <p>7 here, I think.</p> <p>8 Q And the age range needed to match up.</p> <p>9 A As close as possible.</p> <p>10 Q Okay.</p> <p>11 A They're not going to ever be exact, right?</p> <p>12 Sometimes they are. We picked 18 to 24, actually,</p> <p>13 because that does match up with a lot of age ranges,</p> <p>14 'cause you'll see, in national studies, they'll say,</p> <p>15 you know, 15 to 18, 18 to 24, 24 to 30, so we tried</p> <p>16 to pick a category that people would see, in the age</p> <p>17 range, by it doesn't always match up; to wit, this</p> <p>18 has kids up to 25, right?</p> <p>19 Q Do you recall if the Benotsch study measured</p> <p>20 computer use by the sample participants?</p> <p>21 A I don't, no, but I can assure you that, if they're</p> <p>22 college undergraduates, they're using the computer.</p> <p>23 They have to. I mean, I think so much is on the</p> <p>24 computer, so much is on the internet, so much that</p> <p>25 they have to access goes through that, that I'd be</p>	<p>1 Q Okay.</p> <p>2 (Break was taken.)</p> <p>3 Q Dr. Zimmerman, did you speak with anybody during the</p> <p>4 break about your deposition?</p> <p>5 A No.</p> <p>6 Q About the case?</p> <p>7 A No. Would you count what we said? No.</p> <p>8 Q We were looking at the Benotsch article, which we</p> <p>9 had marked Zimmerman Exhibit 5. Did you look at the</p> <p>10 definitions of sexting when you were making your</p> <p>11 comparison?</p> <p>12 A No.</p> <p>13 MR. BAUMGARDNER: Can you point to --</p> <p>14 A Probably right there on page 309?</p> <p>15 BY MR. SWINTON:</p> <p>16 Q I believe the definition is on 308, it's the very</p> <p>17 last paragraph of the page.</p> <p>18 A Right, right, right. So this is slightly different,</p> <p>19 Benotsch sample. This is a lower bar, right? They</p> <p>20 have sexually explicit or suggestive photos. We</p> <p>21 included nude. Right? I did not look at that.</p> <p>22 Q Okay. And so you read the definition in the</p> <p>23 Benotsch survey as being more expansive than the</p> <p>24 definition you used in your sexting study.</p> <p>25 A Well, we said nude or sexually explicit, so I would</p>
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<p>1 shocked. But I don't know if they did or not, do</p> <p>2 you? Do you have that answer?</p> <p>3 Q I don't believe that they.</p> <p>4 A I don't think so, but, oh my gosh. I mean, I know</p> <p>5 that you can't be an undergraduate here without</p> <p>6 access. I mean, that seems almost impossible,</p> <p>7 because everything, I mean you're getting email</p> <p>8 messages. Our syllabi are on the internet; I mean,</p> <p>9 they're not even paper anymore. You know, I think</p> <p>10 the whole expectation is, is that. Affluent kids,</p> <p>11 semi-affluent kids, are going to school with</p> <p>12 computers now, you know. There's computers</p> <p>13 everywhere.</p> <p>14 Q Do you know specifically about the prevalence of</p> <p>15 computer use at the undergraduate university that</p> <p>16 was discussed?</p> <p>17 A At VCU? Well, we don't know what the university is.</p> <p>18 Q Correct.</p> <p>19 A I would be shocked if VCU isn't in the twenty-first</p> <p>20 century either. I have some colleagues there, and I</p> <p>21 would be surprised. Maybe not. But I would be</p> <p>22 surprised if it's not, you know, heavy.</p> <p>23 Q But you don't have any first-hand knowledge about</p> <p>24 that.</p> <p>25 A Do not.</p>	<p>1 say ours is probably a little bit more expansive</p> <p>2 than perhaps theirs.</p> <p>3 Q Okay.</p> <p>4 A You know, it's possible that -- well, yeah, it's</p> <p>5 possible it could have gone the other way, 'cause if</p> <p>6 you ask the question nude first, then they might</p> <p>7 think sexually explicit has to be nude or near nude,</p> <p>8 and they might be less likely to have said it, so it</p> <p>9 could go either way.</p> <p>10 But there's an example of, you know,</p> <p>11 the way you ask the questions, you elicit different</p> <p>12 kinds of responses. I don't think this is different</p> <p>13 enough to have caused a problem, in terms of</p> <p>14 comparison, though.</p> <p>15 And it's very possible I did look at</p> <p>16 it, I just don't remember. I didn't kind of do a</p> <p>17 full review, because I was trying to keep it short,</p> <p>18 and stay close to my own study, which was, again, my</p> <p>19 charge, but this wouldn't have given me pause,</p> <p>20 frankly, in terms of comparing them, but not exactly</p> <p>21 the same question.</p> <p>22 Q When you were making your comparison did you make</p> <p>23 notes at all? When you were making comparisons</p> <p>24 between your sexting study and other studies --</p> <p>25 A Did I make notes?</p>

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<p>1 Q When you were writing your expert report, did you</p> <p>2 take any notes?</p> <p>3 A Maybe. I don't have them. I mean, I might have</p> <p>4 scribbled on a pad as I was reading through this</p> <p>5 one, and, you know, saying, okay, this has got that,</p> <p>6 I can put this one in there, so I will, and I put it</p> <p>7 in there. And, you know, I'm sure I didn't save</p> <p>8 that paper, you know, 'cause I put it here.</p> <p>9 Q So your expert report is the only document that</p> <p>10 memorializes the work you did in preparing the</p> <p>11 report.</p> <p>12 A Memorializes? So does this -- well, I was thinking</p> <p>13 about some points I wanted to make to make a case</p> <p>14 for this, and I do that by either writing it or</p> <p>15 putting it in a word document, 'cause that helps me</p> <p>16 remember, but I don't have anything other than that</p> <p>17 kinda stuff.</p> <p>18 Q Okay.</p> <p>19 A And if I'm recalling correctly, I'm hitting on most</p> <p>20 of the things I wanted to make sure I said.</p> <p>21 (Zimmerman Deposition Exhibit No. 6</p> <p>22 was marked for identification.)</p> <p>23 Q I wanted to show you one more document. This is</p> <p>24 Zimmerman Exhibit 6.</p> <p>25 A Let me guess, this is going to be The National</p>	<p>1 A Right.</p> <p>2 Q Are you familiar with TRU?</p> <p>3 A No, I'm not. I was driven by the next sentence.</p> <p>4 Q Okay. And the next sentence says, "Respondents were</p> <p>5 stratified according to the U.S. Census and the data</p> <p>6 have been weighed to reflect the demographic</p> <p>7 composition of teens and young adults," correct?</p> <p>8 A Um-hum.</p> <p>9 Q You need to answer with words.</p> <p>10 A Yes. Yes. Yes.</p> <p>11 Q What does it mean that "The respondents were</p> <p>12 stratified according to the U.S. Census"?</p> <p>13 A That's similar to what I was talking to you about</p> <p>14 before. When we were looking about the comparisons</p> <p>15 to national data and the Census data, and remember</p> <p>16 we had five percent African American, but there's</p> <p>17 12.6 in the population. They stratified, they</p> <p>18 wanted to make sure that they got 12.6 percent</p> <p>19 African Americans, so they would probably have done</p> <p>20 whatever they did samplingwise to make sure that</p> <p>21 they had the appropriate percentages for whatever --</p> <p>22 they said "demographic characteristics," so I would</p> <p>23 imagine they're referring to age, sex, and</p> <p>24 ethnicity. There could be other ones. There could</p> <p>25 be socioeconomic, or whatever. I don't know what</p>
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<p>1 Campaign. Actually, I could kind of tell. I'm</p> <p>2 pretty sure I remember seeing a very dark thing when</p> <p>3 I did it myself, when I saw this, too.</p> <p>4 Q Dr. Zimmerman, I just handed you a document marked</p> <p>5 Zimmerman Exhibit 6.</p> <p>6 A Yes.</p> <p>7 Q This is a 19-page document called "Sex and Tech,</p> <p>8 Results from a Survey of Teens and Young Adults,"</p> <p>9 correct?</p> <p>10 A Right.</p> <p>11 Q And this is one of the studies you compared the</p> <p>12 results of your sexting study to.</p> <p>13 A Correct.</p> <p>14 Q Do you recall the sampling method from this survey?</p> <p>15 A No. Where is it?</p> <p>16 Q I believe it's on page five under the heading About</p> <p>17 the Survey.</p> <p>18 A They hired a company to do their analysis, or do</p> <p>19 their data collection. And they estimate, what I</p> <p>20 said, was about 90 percent of teens and young adults</p> <p>21 are online. This is pretty typical, yeah.</p> <p>22 Q One of the sentences said, "Respondents for this</p> <p>23 survey were selected from among those who have</p> <p>24 volunteered to participate in TRU's," T-R-U, "online</p> <p>25 surveys."</p>	<p>1 exactly they did, but typically it's the first three</p> <p>2 I said.</p> <p>3 Q Okay. And you don't know what the demographic</p> <p>4 characteristics were here that they used in the</p> <p>5 stratification process.</p> <p>6 A No, but you could probably guess by looking at the</p> <p>7 questionnaire; for example, the age range and male/</p> <p>8 female were for sure there, but, no, the answer is,</p> <p>9 no. I didn't do this study.</p> <p>10 Q The second half of that same sentence says, "The</p> <p>11 data have been weighed to reflect the demographic</p> <p>12 composition of teens and young adults"; do you know</p> <p>13 how --</p> <p>14 A They weighted?</p> <p>15 Q -- how the data was weighted?</p> <p>16 A No, I do not.</p> <p>17 Q Is there a typical way that data would be weighted</p> <p>18 in the way that it's being referred to here?</p> <p>19 A Well, I can only assume, if they're a professional</p> <p>20 survey organization, that they're using standard</p> <p>21 acceptable weighting schemes. I mean, you know, I</p> <p>22 would imagine, like anything, you could cheat and</p> <p>23 weight it so that it comes out better for whatever</p> <p>24 you're looking for.</p> <p>25 They probably didn't have a dog in</p>

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<p>1 the fight here either. I don't know why they would</p> <p>2 weight it any one way or the other, so I can only</p> <p>3 assume that they did it appropriately. It's not a</p> <p>4 peer-reviewed study, but they are a reputable</p> <p>5 company, I assume. I don't actually don't know who</p> <p>6 they are, but I would assume that they, or I did</p> <p>7 assume, that they are a reputable company and</p> <p>8 weighted it appropriately.</p> <p>9 Q But you had never heard of the National Campaign to</p> <p>10 Prevent Teen and Unplanned Pregnancy.</p> <p>11 A Oh, no, I've heard of them, but I haven't heard of</p> <p>12 TRU.</p> <p>13 Q Okay. So you never heard of TRU before.</p> <p>14 A Right. That doesn't mean they're not a very well</p> <p>15 known famous group. And I've heard of Cosmopolitan</p> <p>16 magazine. I think they were the other group that</p> <p>17 was involved in it, Cosmogirl.com.</p> <p>18 Q Right.</p> <p>19 A I think that's Cosmopolitan. I'm not sure.</p> <p>20 Q And you assumed that the stratification and</p> <p>21 weighting methods were correct.</p> <p>22 MR. BAUMGARDNER: Objection. Go</p> <p>23 ahead. You may answer.</p> <p>24 A Yeah, I have no reason to believe that they weren't.</p> <p>25</p>	<p>1 that's so rare, it doesn't matter, we're close</p> <p>2 enough. That's where I was saying that gold</p> <p>3 standard of that perfect study is never done; it</p> <p>4 can't be. There's more than one person like that</p> <p>5 off the grid and whatnot. And those people are</p> <p>6 different than the people who are on the grid,</p> <p>7 right, just as one example.</p> <p>8 So a probability sample is, if it's</p> <p>9 not a probability sample, then, strictly speaking,</p> <p>10 it is by definition a convenience sample, but</p> <p>11 convenience sample have a range of how convenient</p> <p>12 they are. I don't know all the details about how</p> <p>13 they did their survey. Again, I picked these</p> <p>14 studies because they were studies about sexting,</p> <p>15 they were somewhat recent. One was a peer-reviewed</p> <p>16 article. This one is sort of more of a national</p> <p>17 study. We have so little that I was looking for</p> <p>18 things that could potentially help me be convinced</p> <p>19 that my data were somewhat true.</p> <p>20 Q And in that search you only found these two studies.</p> <p>21 MR. BAUMGARDNER: Objection.</p> <p>22 A I don't remember, honestly. I don't remember. Had</p> <p>23 I found more, I think I would have included them, so</p> <p>24 I think the answer is, yes, but I don't know for</p> <p>25 sure.</p>
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<p>1 BY MR. SWINTON:</p> <p>2 Q The last sentence in this paragraph that we've been</p> <p>3 looking at says, "Respondents do not constitute a</p> <p>4 probability sample," correct?</p> <p>5 A Correct.</p> <p>6 Q What is a probability sample?</p> <p>7 A That goes back to that perfect random sample where</p> <p>8 every person has an equal chance to be selected, and</p> <p>9 so not everybody has an equal chance to be selected</p> <p>10 'cause not everybody has access to the internet.</p> <p>11 They might not be selected for this study if it was</p> <p>12 based on that.</p> <p>13 So probability sample is that</p> <p>14 everybody in the sample has an equal chance of being</p> <p>15 selected. The extent to which they don't was partly</p> <p>16 the extent to which your sample is unrepresentative,</p> <p>17 right? So if somebody, who is a hermit, and lives</p> <p>18 in the mountains and away from where our sampling</p> <p>19 strategy might be going door to door, they will not</p> <p>20 be able to be in the sample, because they're off the</p> <p>21 grid and living out in the woods, right? So that</p> <p>22 person didn't have an equal chance of getting in as</p> <p>23 someone who lived in the city.</p> <p>24 We typically -- and that's a real</p> <p>25 example, right? And we typically sort of say, well,</p>	<p>1 BY MR. SWINTON:</p> <p>2 Q Okay. So to the best of our recollection, you found</p> <p>3 only these two studies when you were searching for</p> <p>4 studies to compare your results to.</p> <p>5 A Yes. And I most certainly would not have hidden</p> <p>6 studies, were there more, that didn't help make my</p> <p>7 case, 'cause that's not how I operate or the kind of</p> <p>8 work that I do.</p> <p>9 Q Going back to the sampling method for this survey,</p> <p>10 "The respondents" -- and, again, I'm on page five,</p> <p>11 this is language you've already looked at -- but</p> <p>12 "The respondents of this survey were selected among</p> <p>13 those who have volunteered to participate in TRU's</p> <p>14 online surveys," correct?</p> <p>15 A Yes.</p> <p>16 Q So as I understand it, the way this works is that</p> <p>17 people volunteer to participate in these online</p> <p>18 surveys and are part of a pool of possible</p> <p>19 participants and they're then selected for</p> <p>20 particular surveys; is that correct?</p> <p>21 A I don't know. I don't know enough about them. I do</p> <p>22 know that there are companies that have a sample</p> <p>23 frame of United States people, and that you can hire</p> <p>24 them to go out to those people, collect data from</p> <p>25 them, and they'll do it all for you, and then</p>

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<p>1 they'll send you the data.</p> <p>2 I don't know if TRU does that or not,</p> <p>3 frankly. But if they do, those data are considered</p> <p>4 useful for this kind of purpose. They usually are</p> <p>5 pretty careful about what they're doing, because</p> <p>6 this is their business. And if they don't do a good</p> <p>7 job, then people aren't going to use them; it's just</p> <p>8 like anything.</p> <p>9 I'd be a little surprised if these</p> <p>10 two organizations, Cosmo and the national group,</p> <p>11 would pick a fly-by-night, but you never know. I</p> <p>12 have no idea. And by "volunteer," by the way, my</p> <p>13 study was also volunteer, so that's the same. No</p> <p>14 one's forcing them to do it. That's what</p> <p>15 "volunteer" means.</p> <p>16 Q So it's possible that the people on the TRU survey</p> <p>17 were being compensated also.</p> <p>18 A It's possible.</p> <p>19 Q Assuming that the TRU method described on page five</p> <p>20 is the same as the other volunteer --</p> <p>21 A Internet-based survey samples?</p> <p>22 Q That you just described, so these are internet-based</p> <p>23 survey samples, companies that run these, and you're</p> <p>24 familiar with certain organizations that do that,</p> <p>25 correct?</p>	<p>1 may come up with again. So, no, I don't. I don't</p> <p>2 know who they are, and I don't know where in that</p> <p>3 spectrum it would come.</p> <p>4 Q So you're unable, given what you know right now,</p> <p>5 you're unable to evaluate the survey method that TRU</p> <p>6 employed for this particular sexting study.</p> <p>7 MR. BAUMGARDNER: Objection.</p> <p>8 A Correct.</p> <p>9 MR. BAUMGARDNER: Go ahead.</p> <p>10 A Correct.</p> <p>11 BY MR. SWINTON:</p> <p>12 Q Okay. Are you able to evaluate the survey method</p> <p>13 that TRU employed for this particular sexting study?</p> <p>14 A Isn't that what you just asked?</p> <p>15 Q It's a variation of it.</p> <p>16 A What was the first --</p> <p>17 Q Let me ask it one more time.</p> <p>18 A Actually, I'm shocked that they were two different</p> <p>19 questions.</p> <p>20 Q I think they were stated slightly differently. Let</p> <p>21 me just ask it one more time.</p> <p>22 A Okay.</p> <p>23 Q Given what you know now, are you able to make an</p> <p>24 evaluation of the survey methods TRU employed for</p> <p>25 this sexting study?</p>
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<p>1 A Yeah, I couldn't name you one, but I do know there</p> <p>2 are ones that do that.</p> <p>3 Q Okay. Assuming that TRU is similar to the</p> <p>4 organizations that do these online studies that</p> <p>5 you're familiar with, where do those survey methods</p> <p>6 rank on our continuum of samples of convenience with</p> <p>7 the platonic ideal of the perfect probability</p> <p>8 sample?</p> <p>9 A You know, I can't answer that, because I'm sure</p> <p>10 there's a lot of variability and a lot of</p> <p>11 competition among them. And they argue that mine</p> <p>12 was better than theirs, and ours is bigger, and ours</p> <p>13 can do this, and ours can do that; you know, I don't</p> <p>14 know.</p> <p>15 I'm going to guess, educated guess,</p> <p>16 that, if they're led by survey researchers, who have</p> <p>17 gone into this business, that they're probably</p> <p>18 pretty good, but I really have no way -- I have no</p> <p>19 basis to judge that, other than sort of some</p> <p>20 assumptions I'm making.</p> <p>21 Q And you similarly, it would, therefore, be fair to</p> <p>22 say that you're not able to say where the TRU online</p> <p>23 survey falls on that spectrum either, correct?</p> <p>24 A Correct, but you bet, when I leave here tonight, I'm</p> <p>25 going to definitely look it up. I somehow think it</p>	<p>1 MR. BAUMGARDNER: Objection.</p> <p>2 A No.</p> <p>3 BY MR. SWINTON:</p> <p>4 Q Okay.</p> <p>5 A Given what I know now, can I make a judgment about</p> <p>6 them? No, I don't have enough details.</p> <p>7 Q Did you make any evaluation about TRU's survey</p> <p>8 methods when you were writing your expert report?</p> <p>9 A No.</p> <p>10 Q I'm going to turn back to your expert report. I</p> <p>11 just have a few more questions about that. You have</p> <p>12 it ready to go?</p> <p>13 A Yeah, yeah, yeah.</p> <p>14 Q The first one is something you said earlier in our</p> <p>15 conversation. You said that you doubt that the</p> <p>16 percentage of young adults who text nationwide is</p> <p>17 less than 10 percent; do you remember saying that?</p> <p>18 A Yes. I'm not sure I quite said it the way you said</p> <p>19 it, but, yes. Yeah.</p> <p>20 Q What gives you confidence that the prevalence of</p> <p>21 sexting among young adults nationwide is greater</p> <p>22 than 10 percent?</p> <p>23 A My study, and these other studies, and that we're</p> <p>24 using different methods and we're getting similar</p> <p>25 results. A lot of them are, you know, have some</p>



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<p>1 problems with their sampling strategy. The TRU 2 study was people who use the internet. Our data was 3 use the internet, and, low and behold, the results 4 are really pretty similar. And, you know, I kinda 5 lowered that number; you know, why I can be 6 confident, is because 90 percent have access to 7 internet.</p> <p>8 I think, in this survey, they have 9 either -- cell phone use is also ubiquitous. And I 10 would be surprised, you know, given that the 11 replication is happening, even though these samples 12 are not all perfect, that we're getting similar 13 things; that the chances of us doing our studies and 14 finding the same result, if that result isn't close 15 to truth, you know, gets ever more tenuous if we 16 keep finding the same thing. I mean, after all, how 17 many times do you have to bang your head against the 18 wall to know it hurts. And same thing here, how 19 many times do you have to keep doing the same study?</p> <p>20 Now, am I 100 percent confident at 21 this point, given the state of the field? No. But 22 the reason why I came up with the 10 percent is 23 because I'd be surprised, even given what we have to 24 date, that it'd be as low as that, given how many 25 people are on it, given how, what we're finding,</p>	<p>1 your question is, yes, with the addition of these, 2 the ones that may have been reported in here.</p> <p>3 BY MR. SWINTON:</p> <p>4 Q The ones that may have been reported in the 5 Zimmerman Exhibit 3?</p> <p>6 A Right, ZX 3.</p> <p>7 Q Okay. In the last paragraph on page two of your 8 expert report, you say that, "Although such 9 extrapolation is sometimes tenuous, because a 10 specific estimate based on one sample can capitalize 11 on the error present in any study," what do you mean 12 by that, by that phrase?</p> <p>13 A That's consistent with what I was telling you about 14 one study can't make the whole story, and so you 15 need a body of research to kind of have more 16 confidence, because you do need different methods, 17 because any sample frame is not perfect. So if you 18 have a different sample frame, they're finding the 19 same results, and so forth and so on, and asking the 20 questions slightly differently, and they all start 21 pointing in the same direction, that's what I was 22 sort of -- it was same thing I was telling you about 23 before about may -- I mean, I'm not going to argue 24 that this is a definitive answer, by any stretch of 25 the imagination. But I am saying that, you know, we</p>
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<p>1 what other people are finding.</p> <p>2 Q And that, and "given what we know," when you say 3 that, you're referring to your study, and then the 4 Benotsch study, and the National Campaign study.</p> <p>5 A Yes. Yes. And the other studies that we may have 6 cited in the study that got me here in the first 7 place, the sexting study. I don't remember if we 8 connect to those. I think we do, but there were so 9 few then; it was only teens at that point, right? 10 Yes. So the answer, I guess, to your question is, 11 yes, with a few caveats with the ones that we cited 12 here. And you can see we sort of point to the 13 limited research on sexting and --</p> <p>14 MR. BAUMGARDNER: And you're talking 15 about Exhibit 3, just to make the record clear.</p> <p>16 THE WITNESS: Right, I am referring 17 to Exhibit 3.</p> <p>18 A For example, Ferguson, we cite here, found that 20 19 percent of participants reported engaging in 20 sexting; it was a study of primarily Hispanic young 21 women. So 20 percent is in the ballpark, as far as 22 I'm concerned, for what we found, 30, 20. That was 23 a pretty unique sample. Ours is a little bit 24 broader, you expect a little bit larger number. 25 This was only women, only Latinos. So the answer to</p>	<p>1 have some confidence, given the points I made, and, 2 you know, I'm nervous extrapolating, for all the 3 things that you're getting at.</p> <p>4 There's 30 million people in this age 5 range; you know, does my sample represent all 6 30 million of those people? No. Does it represent 7 28 million or three million? You know, somewhere in 8 that range, and I think closer to the 28 than closer 9 to the three, frankly, you know. So would these 10 numbers be just, depending -- it's hard to do that 11 kind of extrapolation.</p> <p>12 I would not have done it, had I not 13 been asked to do it, necessarily, for this task. 14 But I'd still think you can do it as an exercise to 15 get a sense of how many people might be doing this 16 behavior, and this starts getting us to an estimate.</p> <p>17 And then, you know, I was saying, if 18 we were off by 50 percent, which I have no basis -- 19 I mean, I picked such a high number, 'cause I have 20 no real basis to know how far off are we, but let's 21 say we doubled it and it shouldn't have been 22 doubled, it's still, extrapolate from that; you 23 know, it's still in the millions. So that's kind of 24 where I went, and that was my logic in thinking. 25 And that's why I then discounted it</p>

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<p>1 the extra 50 percent, 'cause one study is tenuous; 2 you know, perhaps we captured a population that just 3 happens to be doing it twice as much as any other 4 sample would be doing it, that's kinda what I'm 5 saying.</p> <p>6 And a point estimate, in our 7 business, is very, very difficult. When we're 8 asked, well, what about my son, what about this, 9 that or the other thing; well, I'm a researcher, I 10 do population, you know, analyses, and I can't 11 predict an individual.</p> <p>12 I can say the probability of that 13 individual, given this information, the probability 14 is they might, but there's all sorts of other 15 factors that we didn't collect. There's genetic 16 factors. There's the relationship that person has 17 with all sorts of people in their lives that, you 18 know, may be different than what we've collected 19 here, but probability is that this is gonna happen 20 in that case, but nobody in a survey business would 21 predict an individual. What we're looking at is 22 probabilities in a population.</p> <p>23 So, you know, if you ask me, at the 24 end of the day, what do I think the real rate is of 25 sexting? If we've overestimated it, and it's</p>	<p>1 that we're only talking about 18-to-24-year-olds. 2 This study was published in '12. We already have a 3 whole group of our kids who would not have been in 4 our study, and there's a whole new group coming in, 5 who where sexting might be more or less happening.</p> <p>6 And I don't know if laws or news or 7 parents or, you know, is gonna change things because 8 of these horrific things that have happened about it 9 going viral, whether that'll decrease or increase it 10 or just make it more careful. But at the end of the 11 day, this is a behavior that's, you know, maybe not 12 as widespread as marijuana use, but I think it's 13 getting in that direction, given these flawed 14 studies; you know, I would say that, in my heart of 15 hearts, you know, and even if it's 10 percent, but 16 we know it's more than that.</p> <p>17 It's part of dating now. And you 18 know what I think is happening, what's gonna happen, 19 is there's going to be a population norm around not 20 doing this and not sharing with other people, 21 because it's going to be one of those intimate 22 things about kissing and telling, you're not going 23 to kiss and tell. I mean, there are guys who have 24 sex with a woman and then everybody knows it, and 25 there are guys who have sex with a woman and nobody</p>
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<p>1 possible we did, I doubt that we were off by a 2 factor of two. But let's say it's 30 percent, and, 3 then it's 15 percent, so I discounted it more, and 4 that's where I came up with the number of 10 percent 5 earlier. That'd be like even less than 50 percent. 6 And I don't think our data, and the way we did our 7 study, is so different; partly because I have no 8 reason to believe that African Americans, or whites, 9 are more or less likely to do this, right?</p> <p>10 So some of the data that didn't match 11 up with the Census track, you know, I don't have any 12 theoretical reason to think that one group would be 13 more or less to do it than another. There might be, 14 but, at this point, the sciences on this topic is so 15 new, we don't really know.</p> <p>16 We had some idea that maybe girls and 17 boys might be doing it differently, you know, but 18 our data on males and females was the same as the 19 national data. So, I mean, I think, when you sort 20 of peel it all away, you know, the number is 21 probably between 20 and 30 percent, if we're at the 22 high end. We might not even be at the high end.</p> <p>23 And here's another thing, is, as time 24 goes on, the numbers are gonna increase, because the 25 other thing is, it's really important to know, is</p>	<p>1 knows it, and vice versa, women with men. And I 2 think this is just part of that process. And we 3 hear about the viral stuff that goes viral, but 4 that's just what we hear about, we don't know.</p> <p>5 Sexual behavior in the United States, 6 we're a very puritanical society. And I've learned 7 an incredible amount through this study, and my 8 colleague, who actually runs a sex lab here where he 9 studies this kind of behavior, and just in general, 10 not just sexting. And it's an interesting field 11 that is opening up in a way that didn't exist 12 growing up. You know, just watching television 13 today, I mean I remember watching something, it was 14 like 15 years ago, it was like the boyfriend and 15 girlfriend slept together with the parents in the 16 house in a TV show. I grew up with Leave it to 17 Beaver, where the husband and wife didn't even sleep 18 in the same bed. So I think sexting is going to 19 become a normative behavior. And I think our data 20 right now are going to be, in the end, 21 underestimates of what it's gonna actually be.</p> <p>22 Where you didn't go is, you know, are 23 people gonna, you know, tell me the truth, 'cause 24 maybe they won't, because they'll be too 25 embarrassed, or they don't want to know, or they</p>

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<p>1 don't want to kiss and tell.</p> <p>2 Same thing with marijuana use. What</p> <p>3 do we do about marijuana use? We're not testing</p> <p>4 everybody. In the Monitoring the Future studies,</p> <p>5 and all these national studies that exist on</p> <p>6 marijuana use, you know, they're basically depending</p> <p>7 on people telling the truth. And so what we</p> <p>8 probably have is an understatement.</p> <p>9 And, you know, that's something, in</p> <p>10 behavioral sciences, that we kind of have to live</p> <p>11 with, because there's only one way to get that,</p> <p>12 right, that's reasonable, that's feasible. We could</p> <p>13 follow every human being around and see what they</p> <p>14 do; not feasible, right?</p> <p>15 There's actually been some studies</p> <p>16 about smoking that makes people believe it is, but,</p> <p>17 again, it goes back to how many other studies show</p> <p>18 that the data is about 40 percent, you know. If</p> <p>19 people are not telling us the truth, that's the best</p> <p>20 we have. We can be pretty confident it's at least</p> <p>21 40 percent, right? Chances are it's more.</p> <p>22 Q Just to clarify, do you have any data to suggest</p> <p>23 that people are being dishonest when responding to</p> <p>24 questions about sexting?</p> <p>25 A No. No data on that. And there's some data on drug</p>	<p>1 smoked five times, when really they smoked eight</p> <p>2 times, or ten times, it would have gotten in a</p> <p>3 different category, right, but they're smokers.</p> <p>4 We don't know about sexting, but it's</p> <p>5 a similar kind of behavior, right? And I have to</p> <p>6 tell you, you know, I didn't know it was against the</p> <p>7 law until I was called, and I bet you there's a lot</p> <p>8 of people who don't know. So I think they are</p> <p>9 probably being somewhat truthful, I think they are.</p> <p>10 Q Are you aware of any evidence to suggest that the</p> <p>11 number, as time goes on, the number of young adults</p> <p>12 sexting is increasing?</p> <p>13 A I have no data on that. We have no idea. We really</p> <p>14 have no idea.</p> <p>15 Q Okay.</p> <p>16 A Whether it's increasing or decreasing. What I was</p> <p>17 saying is, it was just purely conjecture on my part,</p> <p>18 given what I've studied and know, so, in a way, I'm</p> <p>19 talking out of turn.</p> <p>20 Q Okay. And just to go back to the line here in your</p> <p>21 expert report on page two, "Although such</p> <p>22 extrapolation is sometimes tenuous," is the</p> <p>23 extrapolation that you're doing in your expert</p> <p>24 report tenuous?</p> <p>25 A It's sometimes tenuous. I would say almost all</p>
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<p>1 use, they're called pipeline studies. And what they</p> <p>2 do is they randomly assign people to two groups:</p> <p>3 One, where they provide saliva samples, and then</p> <p>4 they're told they will be tested, and another group</p> <p>5 they don't do that with, randomly assigned. And</p> <p>6 then they compare their response to drug use, right?</p> <p>7 These are mostly done with kids and</p> <p>8 around tobacco, we can test your tobacco. So we're</p> <p>9 going to ask you a bunch of questions, but we'd like</p> <p>10 to, saliva, and there's no difference. The</p> <p>11 hypothesis would be, if you know you're being</p> <p>12 tested, you're going to tell the truth, so these</p> <p>13 guys are true, telling the truth. And these guys</p> <p>14 were probably lying, if they are not telling the</p> <p>15 truth. These other guys, who are not being tested,</p> <p>16 will underestimate. And they don't, they're the</p> <p>17 same.</p> <p>18 So there's other studies like that</p> <p>19 where, you know, people are reporting their</p> <p>20 substance use. If you can guarantee it's anonymous,</p> <p>21 and all those sort of things, you can, within a</p> <p>22 range, expect that they're telling the truth. You</p> <p>23 know, if you ask them how many marijuana cigarettes</p> <p>24 they smoke, and, you know, they may not be telling</p> <p>25 you a lie on purpose, but they might remember they</p>	<p>1 extrapolation is tenuous, and so what you have to do</p> <p>2 is defend having done it. I did not do it very</p> <p>3 carefully, which is why I discounted myself</p> <p>4 50 percent in the next line, which is why I said,</p> <p>5 okay, so even if we're not right, even if you take</p> <p>6 out, you know, out of the 30 million, the sum who</p> <p>7 may never use the internet, that my sample may not</p> <p>8 be representative to; even if you take out, so the</p> <p>9 most affluent people, because they don't need the</p> <p>10 money, from my sample; even if you do all those</p> <p>11 things, there's still a very wide swath of people</p> <p>12 that are a whole lot like the people we collect the</p> <p>13 data about.</p> <p>14 If African Americans do it less than</p> <p>15 white people, given the bias in my sample with fewer</p> <p>16 of them, then we may have a slightly overestimated</p> <p>17 number, which is why I've discounted it. If, you</p> <p>18 know, Latinos do it a little bit less, you know; I</p> <p>19 mean, the percentages are very small, so it won't</p> <p>20 have a huge effect, which is, again, that's why I</p> <p>21 was very liberal in saying, if I was 50 percent off,</p> <p>22 but we're talking about seven percent.</p> <p>23 And so if it's, you know, if they do</p> <p>24 it twice as much, we're still only talking a very</p> <p>25 small percentage of the total population out of that</p>

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<p>1 group, the difference between them, but of the</p> <p>2 group, it's seven percent of 12 percent, right, and</p> <p>3 so that's what you decide to kind of go to.</p> <p>4 So, you know, it's not a definitive</p> <p>5 study, so that's why I said it's sometimes tenuous,</p> <p>6 or is tenuous, 'cause this is not a definitive</p> <p>7 study, 'cause I can't make an estimate of what</p> <p>8 30 million people are not part of my sample. I can</p> <p>9 make some guesses, so that's why I did the</p> <p>10 discounting business. So I sort of did it very</p> <p>11 straightforwardly, and then I kind of went further</p> <p>12 out. But, you know, go to 70 percent, still talking</p> <p>13 millions of people.</p> <p>14 Q And the discounting you're referring to is where you</p> <p>15 say, "Even if our estimates are off by as much as</p> <p>16 50 percent."</p> <p>17 A Correct.</p> <p>18 Q So is your estimates the pure application of the</p> <p>19 prevalence rate from the sexting study to the Census</p> <p>20 to the discounted application?</p> <p>21 A Ask that question again.</p> <p>22 Q The estimate in your expert report, you give two</p> <p>23 different sets of numbers. The first set is where</p> <p>24 you apply the prevalence rate to the data from the</p> <p>25 Census Bureau.</p>	<p>1 States, you know, is not very big; it's 1/300th,</p> <p>2 less than 1/300th, right? So in that respect, it</p> <p>3 isn't very big. But a million people is a lot of</p> <p>4 people, right, on another hand, so it depends on the</p> <p>5 context.</p> <p>6 Try to get a million people in the</p> <p>7 football stadium here, it won't happen. That's a</p> <p>8 lot of people. There was something else I just</p> <p>9 wanted to make a point about in terms of about this,</p> <p>10 but maybe I'll come back to it. I forget what it</p> <p>11 was. So discounting from my percentage to the</p> <p>12 30 million.</p> <p>13 Q So to go back to my original question, it's fair to</p> <p>14 say that your extrapolation in our expert report is</p> <p>15 tenuous.</p> <p>16 MR. BAUMGARDNER: Objection. You</p> <p>17 gotta read the whole sentence. You just keep</p> <p>18 plucking that first part out.</p> <p>19 A No, I mean, knowledge is tenuous; I mean, really, if</p> <p>20 you really kind of want to really peel it all away.</p> <p>21 Is it tenuous? I mean, what do I mean by tenuous?</p> <p>22 I mean, it's not definitive. I don't mean tenuous</p> <p>23 in the terms that it's a bad estimate. It's just</p> <p>24 not definitive, right?</p> <p>25 So is it not definitive? Absolutely,</p>
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<p>1 A Oh, I see what you're saying.</p> <p>2 Q And the second set is where you've discounted it.</p> <p>3 A It's from the Census number. I mean, it's from my</p> <p>4 percentages.</p> <p>5 Q Okay.</p> <p>6 A It's one in the same, in a way. So what I basically</p> <p>7 was saying here is, if my estimate of 30 percent of</p> <p>8 having sexted was only 15 percent, what would that</p> <p>9 number be, and it would be 4.6 million, right?</p> <p>10 So there could be two corrections;</p> <p>11 one, is, okay, let's say our sample is only</p> <p>12 representative of 25 million, so five million have</p> <p>13 to come out of the equation. So now it's 30 percent</p> <p>14 of 25 million, not 30 percent of 30 million, right,</p> <p>15 per example. That would be one point of correction.</p> <p>16 Then the other point of correction would be our</p> <p>17 estimate.</p> <p>18 And if I just take it down to</p> <p>19 50 percent, I was sort of giving a very rough, do</p> <p>20 both of those things and this is about where you</p> <p>21 might end up, 15 percent of a smaller sample, and</p> <p>22 you'd still end up with 4.6.</p> <p>23 If you discounted it by more, it's --</p> <p>24 you know, the numbers are big. You know, I don't</p> <p>25 know if a million people, relative to the United</p>	<p>1 it's not definitive, for all the reasons we've</p> <p>2 talked about. Do I fairly make it? Again, let's</p> <p>3 say we were off by, you know, two-fold; let's say it</p> <p>4 was three-fold, 10 percent; let's say the rate was</p> <p>5 really only 10 percent, not 30 percent; and let's</p> <p>6 say, you know, you have to discount five million</p> <p>7 people out of the Census, it's still 2.5 million</p> <p>8 people, right?</p> <p>9 So, again, I don't know what a magic</p> <p>10 number is with that. But, you know, to me, that's a</p> <p>11 lot of young adults that we'd have to deal with if</p> <p>12 they're doing stuff that -- imagine it's that kind</p> <p>13 of number who are, you know, drinking and driving at</p> <p>14 high speeds late at night; we have laws about that,</p> <p>15 right?</p> <p>16 I mean, anyway, but that's a judgment</p> <p>17 that, obviously, I make, as a social scientist,</p> <p>18 about how big a problem is too big a problem to</p> <p>19 ignore, right? We spend all sorts of money on, you</p> <p>20 know, very rare diseases to try understand them,</p> <p>21 schizophrenia being one of them, one percent of the</p> <p>22 population. But it's so extreme that we want to</p> <p>23 understand it, because we need to understand it, for</p> <p>24 whatever reasons.</p> <p>25 You know, this is a relatively</p>



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<p>1 innocuous behavior, I think, which is why it happens</p> <p>2 a lot, and I don't think it happens as little as 10</p> <p>3 percent. There's no evidence that we have that it</p> <p>4 happens that little.</p> <p>5 And the other thing that's really</p> <p>6 important for me is we're only talking</p> <p>7 18-to-24-year-olds; you know, Weiner, that was his</p> <p>8 name, right, who might run for mayor, I think both</p> <p>9 he and the person he sexted were both over, out of</p> <p>10 that range.</p> <p>11 So there's also probably, I'm going</p> <p>12 to guess, a nontrivial number of people outside this</p> <p>13 range, who also are texting, or sexting, but</p> <p>14 maybe -- I don't know. I'm speaking out of turn on</p> <p>15 that. But on this, I would say whatever you,</p> <p>16 however you want to spin this, it's a nontrivial</p> <p>17 number. It's a nontrivial number. I'm pretty</p> <p>18 confident about that, based on my data, based on</p> <p>19 others, and what little has been done.</p> <p>20 BY MR. SWINTON:</p> <p>21 Q And the word "trivial," does that have any special</p> <p>22 meaning within the field of behavioral sciences?</p> <p>23 A Yeah, it means that it's a behavior that's worth</p> <p>24 trying to understand because it can have other</p> <p>25 social and behavioral consequences. You know, if</p>	<p>1 population.</p> <p>2 What we're actually finding is that</p> <p>3 it's not related to that kind of behavior. They</p> <p>4 were not more likely or less likely to have number</p> <p>5 of, different sex partners, or that sort of thing,</p> <p>6 which leads me to believe that it's probably very</p> <p>7 ubiquitous behavior, because there aren't that many</p> <p>8 people who sleep with 3,000 people in the world,</p> <p>9 right?</p> <p>10 This is probably just part -- I mean,</p> <p>11 before this all came up, I started telling people</p> <p>12 about this study, and to me, what I've learned from</p> <p>13 this, what I take from it, as a behavioral</p> <p>14 scientist, is that it looks like this is just part</p> <p>15 of the dating process.</p> <p>16 When I was a kid, you know, affluent</p> <p>17 families, didn't have to be very affluent, but less</p> <p>18 than poorer families, sometimes had two, if they had</p> <p>19 teenagers, they got a second telephone line because</p> <p>20 they spend so much time on the telephone, often with</p> <p>21 people they might be dating. This is just the new</p> <p>22 way of doing it.</p> <p>23 My daughter doesn't like, talking</p> <p>24 about her earlier, she doesn't like to talk on the</p> <p>25 phone very much. She sends thousands of texts a</p>
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<p>1 it's trivial, well, who cares how many people blow</p> <p>2 their nose at noon? That's trivial.</p> <p>3 So when I say nontrivial, I mean it's</p> <p>4 probably significant enough to warrant attention,</p> <p>5 that's what I mean, right? And sometimes that's</p> <p>6 because of the number of people, and sometimes</p> <p>7 that's because of the kind of behavior it is.</p> <p>8 And one of the reasons why we did</p> <p>9 this study is because we thought -- we didn't even</p> <p>10 think about the number of people. I mean, I</p> <p>11 honestly, when I thought about this, it was that,</p> <p>12 which is what the study is about, not the prevalence</p> <p>13 rates, right, is, do people who sext, are they, you</p> <p>14 know, kind of sex maniacs? And I don't mean that</p> <p>15 necessarily in a negative way, but are they people</p> <p>16 who are having sex with multiple people? You know,</p> <p>17 are these the guys who are spreading disease? You</p> <p>18 know, it doesn't take very many. You know, HIV</p> <p>19 epidemic was tracked down to one typhoid Mary</p> <p>20 person, you know, why it started spreading around</p> <p>21 the world the way it did; somebody, who was very</p> <p>22 promiscuous, who was having sex with many people</p> <p>23 across many continents. And, you know, if sexting</p> <p>24 is related to that kind of behavior, it's not</p> <p>25 trivial, right? Even if it's two percent of the</p>	<p>1 day -- a month, not a day. You know, I mean, it's a</p> <p>2 much better way to kind of reach her and connect</p> <p>3 with her. It is the way people are doing their</p> <p>4 lives these days. My wife and I were just talking</p> <p>5 about it yesterday, unbeknownst to this, I mean,</p> <p>6 unrelated to this. It's just the way it is, right?</p> <p>7 How many texts do you even send? I</p> <p>8 mean, it's not that far to go to the next step,</p> <p>9 especially among a group of people who are becoming</p> <p>10 independent, out of the house, you know, exploring</p> <p>11 themselves sexually, all those sorts of things. I</p> <p>12 mean, not that they're not sexual before 18, they</p> <p>13 are, quite a lot, but this is even bigger. Anyway,</p> <p>14 I go on with a lecture. You didn't ask me</p> <p>15 questions, and my client is probably, like, Shut up</p> <p>16 already, hoping it gets to 3 o'clock before I say</p> <p>17 too much.</p> <p>18 Q I actually don't have anymore questions for you at</p> <p>19 the moment.</p> <p>20 A What does that mean?</p> <p>21 Q We're not quite done, but I don't have anymore</p> <p>22 questions.</p> <p>23 MR. BAUMGARDNER: Okay.</p> <p>24 MR. SWINTON: I think it's a little</p> <p>25 after 2:30.</p>



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MR. BAUMGARDNER: Just to clarify,
what do you mean "at the moment"?

MR. SWINTON: I didn't know if you'd
ask any and I'd have redirect.

MR. BAUMGARDNER: No, I have no
questions.

(The deposition concluded at 2:30 p.m.)

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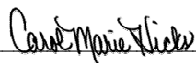
CERTIFICATE OF NOTARY

STATE OF MICHIGAN)

) SS

COUNTY OF LIVINGSTON)

I, Carol Marie Hicks, Certified Shorthand Reporter,
a Notary Public in and for the above county and state, do
hereby certify that the above deposition was taken before
me at the time and place hereinbefore set forth; that the
witness was by me first duly sworn to testify to the
truth, and nothing but the truth, that the foregoing
questions and answers made by the witness were duly
recorded by me stenographically and reduced to computer
transcription; that this is a true, full and correct
transcript of my stenographic notes so taken; and that I
am not related to, nor of counsel to either party nor
interested in the event of this cause.



Carol Marie Hicks

CSR 3345 Notary Public,
Livingston County, Michigan

My Commission expires: September 4, 2016



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